

Senate Bill No. 626

Passed the Senate June 14, 2004

Secretary of the Senate

Passed the Assembly May 20, 2004

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 7005, 7008, 89529.03, and 89621 of the Education Code, to amend Sections 3517.6, 3517.61, 3572.5, 9322, 9359.83, 14876, 16391.1, 19849.15, 19871, 21450, 21506, 21551, 21635, 21635.5, 26296.22, 26299.036, 73642, 73952, 74342, 74742, and 75521 of, to add Part 5 (commencing with Section 22750) to Division 5 of Title 2 of, to repeal Sections 21690, 21691, 21692 of, to repeal Part 5 (commencing with Section 22751) of Division 5 of Title 2 of, and to repeal and add Part 6 (commencing with Section 22950) of Division 5 of Title 2 of, the Government Code, to amend Section 124964 of the Health and Safety Code, to amend Section 4856 of the Labor Code, to amend Section 13600 of the Probate Code, to amend Section 35137 of the Public Resources Code, and to amend Sections 130109, 131269, and 140109 of the Public Utilities Code, relating to public employee benefits, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 626, Committee on Public Employment and Retirement. Benefits: Public Employees' Medical and Hospital Care Act.

The Public Employees' Medical and Hospital Care Act authorizes the Board of Administration of the Public Employees' Retirement System to contract with carriers for health benefit plans and major medical plans for employees and annuitants, as defined, and approve other specified plans.

This bill would revise and recast those provisions and related definitions, including, but not limited to, the terms "annuitant," "carrier," "employee," "employer," and "family member." The bill would conform various statutory provisions of law to these revisions.

This bill would also make other statutory and conforming changes with respect to duties of the Board of Administration and the State Employees' Dental Care Act.

The bill would declare that it is to take effect immediately as an urgency statute.



The people of the State of California do enact as follows:

SECTION 1. Section 7005 of the Education Code is amended to read:

7005. This article does not apply to persons receiving benefits pursuant to the Public Employees' Medical and Hospital Care Act (Chapter 1 (commencing with Section 22750) of Part 5 of Division 5 of Title 2 of the Government Code) and to the employers on which their benefits are based.

For purposes of this section, "employer" means a county superintendent of schools, a school district, or a community college district irrespective of whether employees may be represented by different bargaining groups. Notwithstanding any other provision of this part, this article does not apply to employers for those groups of employees for whom coverage under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code) is provided by contract.

SEC. 2. Section 7008 of the Education Code is amended to read:

7008. (a) Notwithstanding any other provision of law, a member of the Defined Benefit Program of the State Teachers' Retirement Plan who is disabled as a result of an injury that is a direct consequence of a violent act perpetrated on his or her person while performing duties in the scope of employment, and the employment is creditable under the provisions of the Teachers' Retirement Law (Part 13 (commencing with Section 22000)), may, upon qualifying for a disability under Section 24001 and while receiving an allowance under Section 24002, continue in the district's health care plan and dental care plan by paying all of the employer's and employee's premiums and all of the related administrative costs of the employer.

(b) Notwithstanding any other provision of law, a school member as defined in Section 20370 of the Government Code, or a local police officer as defined in Section 20430 of the Government Code, who is disabled as a result of an injury that is a direct consequence of a violent act perpetrated on his or her person while performing duties in the scope of employment, and the employment is creditable under the Public Employees' Retirement Law (Part 3 (commencing with Section 20000)) of



Division 5 of Title 2 of the Government Code), may, upon qualifying for a disability and while receiving an allowance under Chapter 12 (commencing with Section 21060) of Part 3 of Division 5 of Title 2 of the Government Code, continue in the employer's health care plan and dental care plan by paying all of the employer's and employee's premiums and all of the related administrative costs of the employer.

(c) Subdivisions (a) and (b) do not apply to any member who is employed by a school district that contracts with the Public Employees' Retirement System for health care coverage under the Public Employees' Medical and Health Care Act, (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code).

SEC. 3. Section 89529.03 of the Education Code is amended to read:

89529.03. If an employee is temporarily disabled by illness or injury arising out of and in the course of state employment, he or she shall become entitled, regardless of his or her period of service, to receive industrial disability leave and payments, in lieu of workers' compensation temporary disability payments and payment under Section 89527, for a period not exceeding 52 weeks within two years from the first day of disability. The payments shall be in the amount of the employee's full pay less withholding based on his or her exemptions in effect on the date of his or her disability for federal income taxes, state income taxes, and social security taxes not to exceed 22 working days of disability subject to Section 89529.08. Thereafter, the payment shall be two-thirds of full pay. Payments shall be additionally adjusted to offset disability benefits, excluding those disability benefits payable from the State Teachers' Retirement System, the employee may receive from other employer-subsidized programs, except that no adjustment will be made for benefits to which the employee's family is entitled up to a maximum of three-quarters of full pay. Contributions to the Public Employees' Retirement System or the State Teachers' Retirement System shall be deducted in the amount based on full pay. Discretionary deductions of the employee including those for coverage under a state health benefits plan in which the employee is enrolled shall continue to be deducted unless canceled by the employee. State employer contributions to the Public Employees' Retirement



System and state employer normal retirement contributions to the State Teachers' Retirement System shall be made on the basis of full pay and state contributions pursuant to Sections 22871 and 22885 of the Government Code because of the employee's enrollment in a health benefits plan shall continue.

SEC. 4. Section 89621 of the Education Code is amended to read:

89621. Any eligible employee electing to participate in the optional retirement program shall be ineligible for membership in the Public Employees' Retirement System so long as he or she is employed in any eligible position by the California State University. In the event an optional retirement program participant assumes a position in public service for which the optional retirement program is not available, the employee shall, at that time, cease participation in the program and shall begin participation in the Public Employees' Retirement System.

Employees who elect to participate in the optional retirement program shall remain eligible to participate in the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code) as if they were members of the Public Employees' Retirement System.

SEC. 5. Section 3517.6 of the Government Code is amended to read:

3517.6. (a) (1) In any case where the provisions of Section 70031 of the Education Code, or subdivision (i) of Section 3513, or Section 14876, 18714, 19080.5, 19100, 19143, 19261, 19818.16, 19819.1, 19820, 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3,

19996.1, 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605, 22870, 22871, or 22890 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action.

(2) Notwithstanding paragraph (1), this paragraph shall apply only to state employees in State Bargaining Unit 5. In any case where the provisions of Section 70031 of the Education Code, or subdivision (i) of Section 3513, or Section 14876, 18714, 19080.5, 19100, 19143, 19261, 19576.1, 19818.16, 19819.1, 19820, 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1, 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605, 22870, 22871, or 22890 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action.

(3) Notwithstanding paragraph (1), this paragraph shall apply only to state employees in State Bargaining Unit 8. In any case where the provisions of Section 70031 of the Education Code, or subdivision (i) of Section 3513, or Section 14876, 18714, 19080.5, 19100, 19143, 19261, 19574, 19574.1, 19574.2, 19575, 19576.1, 19578, 19582, 19582.1, 19175.1, 19818.16, 19819.1, 19820, 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862,



19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1, 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605, 22870, 22871, or 22890 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action.

(4) Notwithstanding paragraph (1), this paragraph shall apply only to state employees in State Bargaining Unit 12 or 13. In any case where the provisions of Section 70031 of the Education Code, or subdivision (i) of Section 3513, or Section 14876, 18670, 18714, 19080.5, 19100, 19143, 19261, 19574, 19574.1, 19574.2, 19575, 19578, 19582, 19583, 19702, 19818.16, 19819.1, 19820, 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1, 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605, 22870, 22871, or 22890 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action.

(b) In any case where the provisions of Section 19997.2, 19997.3, 19997.8, 19997.9, 19997.10, 19997.11, 19997.12, 19997.13, or 19997.14 are in conflict with the provisions of a memorandum of understanding, the terms of the memorandum of



understanding shall be controlling unless the State Personnel Board finds those terms to be inconsistent with merit employment principles as provided for by Article VII of the California Constitution. Where this finding is made, the provisions of the Government Code shall prevail until those affected sections of the memorandum of understanding are renegotiated to resolve the inconsistency. If any provision of the memorandum of understanding requires the expenditure of funds, those provisions of the memorandum of understanding may not become effective unless approved by the Legislature in the annual Budget Act. If any provision of the memorandum of understanding requires legislative action to permit its implementation by amendment of any section not cited above, those provisions of the memorandum of understanding may not become effective unless approved by the Legislature.

SEC. 6. Section 3517.61 of the Government Code is amended to read:

3517.61. Notwithstanding Section 3517.6, for state employees in State Bargaining Unit 6, in any case where the provisions of Section 70031 of the Education Code, subdivision (i) of Section 3513, or Section 14876, 18714, 19080.5, 19100, 19143, 19261, 19818.16, 19819.1, 19820, 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3, 19994.4 19995, 19995.1, 19995.2, 19995.3, 19996.1, 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605, 22870, 22871, or 22890 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action. In any case where the provisions of Section 19997.2, 19997.3, 19997.8, 19997.9, 19997.10,



19997.11, 19997.12, 19997.13, or 19997.14 are in conflict with the provisions of a memorandum of understanding, the terms of the memorandum of understanding shall be controlling unless the State Personnel Board finds those terms to be inconsistent with merit employment principles as provided for by Article VII of the California Constitution. Where this finding is made, the provisions of the Government Code shall prevail until those affected sections of the memorandum of understanding are renegotiated to resolve the inconsistency. If any provision of the memorandum of understanding requires the expenditure of funds, those provisions of the memorandum of understanding may not become effective unless approved by the Legislature in the annual Budget Act. If any provision of the memorandum of understanding requires legislative action to permit its implementation by amendment of any section not cited above, those provisions of the memorandum of understanding may not become effective unless approved by the Legislature.

SEC. 7. Section 3572.5 of the Government Code is amended to read:

3572.5. (a) Except as provided in subdivision (b), in the case where the following provisions of law are in conflict with a memorandum of understanding, the memorandum of understanding shall be controlling.

(1) Part 13 (commencing with Section 22000) of, and Sections 66609, 89007, 89039, 89500, 89501, 89502, 89503, 89504, 89505, 89505.5, 89506, 89507, 89508, 89510, 89512, 89513, 89514, 89515, 89516, 89517, 89518, 89519, 89520, 89523, 89524, 89527, 89531, 89532, 89533, 89534, 89537, 89541, 89542, 89543, 89544, 89545, 89546, 89550, 89551, 89552, 89553, 89554, 89555, 89556, 89700, and 89701 of, the Education Code.

(2) Sections 825, 825.2, 825.6, 3569.5, 6700, 11020, and 11021, Chapter 2 (commencing with Section 18150) of Part 1 of Division 5 of Title 2, Sections 18200, 19841, 19848, 19850.6, and 19864, Article 4 (commencing with Section 19869) and Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6 of Division 5 of Title 2, and Section 22871.

(3) Sections 395, 395.01, 395.05, 395.1, and 395.3 of the Military and Veterans Code.

(b) (1) Notwithstanding the inclusion in Section 89542.5 of the Education Code, except with respect to paragraph (5) of subdivision (a) of that section, of a provision providing that, if the statute is in conflict with a memorandum of understanding reached pursuant to this chapter, the memorandum of understanding shall be controlling without further legislative action, unless the memorandum of understanding requires the expenditure of funds, that section, except for paragraph (5) of subdivision (a) of that section, provides a minimum level of benefits or rights, and is superseded by a memorandum of understanding only if the relevant terms of the memorandum of understanding provide more than the minimum level of benefits or rights set forth in that section, except for paragraph (5) of subdivision (a) of that section.

(2) This subdivision only applies to a memorandum of understanding entered into on or after January 1, 2002.

SEC. 8. Section 9322 of the Government Code is amended to read:

9322. (a) Notwithstanding Part 6 (commencing with Section 22950) of Division 5, or any other law, the Legislature shall provide dental care plan coverage, pursuant to this section, for a person who is (1) a former Member of the Assembly or Senate or former legislative employee and who meets the conditions imposed by subdivision (a) of Section 22815, (2) a former Member of the Assembly or Senate or former legislative employee as defined by subdivision (f) or (g) of Section 22760, or (3) a former Member of the Assembly or Senate who meets the conditions imposed by subparagraph (A) or (B) of paragraph (1) of subdivision (a) of Section 22815.

(b) The Senate Committee on Rules shall administer the dental care plan for former Senators and former Senate employees. The Assembly Committee on Rules shall administer the dental care plan for former Assembly Members and former Assembly employees. Each rules committee shall be paid by those persons the contributions specified by subdivision (b) of Section 22815, including the additional 2 percent of the contribution payments required to be paid to cover the cost of administration. If the Senate Committee on Rules or the Assembly Committee on Rules does not receive the required contribution and the additional 2 percent of the contribution payment on the first day of a month or within 20 days thereafter, continued coverage shall be terminated



effective the first day of that month and may not be reinstated by subsequent receipt of the contribution and payment.

(c) If a person described in subdivision (a) retires, he or she shall be enrolled in the dental care plan provided for retirees in the retirement plan in which he or she is a member.

(d) There is no duty to locate or notify any person who may be eligible to enroll pursuant to this section.

SEC. 9. Section 9359.83 of the Government Code is amended to read:

9359.83. Retired members of the system, and beneficiaries, who are entitled to receive allowances under the provisions of this chapter, may authorize deductions to be made from their retirement allowance payments, in accordance with regulations established by the board, for the payment of group insurance premiums and for dues or charges of a nonprofit membership corporation for the purpose of defraying the cost of medical services or hospital care, or both, under any plan approved by the Director of Finance. Those persons may also authorize deductions to be made from their retirement allowance payments, in accordance with regulations established by the board, for the payment of contributions for any health benefit plan coverage for which they may be eligible under the provisions of Chapter 1 (commencing with Section 22750) of Part 5 of Division 5 of Title 2 of this code.

SEC. 10. Section 14876 of the Government Code is amended to read:

14876. (a) Pressmen, typographers, linotypers, compositors, bookbinders, lithographers, engravers, apprentices and assistants and all other employees of the Office of State Printing employed in allied work shall be paid on an hourly wage basis. The basic wage of those employees shall be the prevailing hourly wage paid to persons identified by the Department of Personnel Administration to be in similar and comparable employment by private printers in the major metropolitan areas in California. The Department of Personnel Administration shall accept and give validity to certified copies of agreed upon contracts submitted by either the employer, the employer group, or the employee organization.

The Department of Personnel Administration shall survey only major employers where there are agreed upon contracts. If any



agreed upon contract contains any provision or provisions that do not reflect the actual practice of the employer, the Department of Personnel Administration shall disregard the provision or provisions.

If the Department of Personnel Administration finds that salary relationships between surveyed classes do not accurately reflect relationships in duties and responsibilities of employees of the Office of State Printing, the department shall adjust those wage rates on an equitable basis notwithstanding the survey findings.

As used in this section, prevailing wages and prevailing benefits means wages and benefits arrived at through negotiation between an employer or employer organization and an employee organization that is the bona fide representative of the employer's employees and certified as the bona fide representative by the Director of Industrial Relations. In order to be so certified, the employee organization shall be free from employer influence and domination.

(b) In addition to these wages, and the rights and privileges afforded state employees under the provisions of the State Civil Service Act, and other statutes, there shall be paid to each employee of the Office of State Printing, either directly or to a health and welfare fund on his or her behalf, an amount equal to the prevailing individual contributions paid to health and welfare plans for employees in similar and comparable employment by private printers in the major metropolitan areas. Where those contracts do not disclose the dollar value of health and welfare benefits, the state shall provide the same or substantially the same level of benefits as provided for in the agreed upon contracts. Any adjustments made pursuant to subdivisions (a) and (b) of this section shall be effective as of March 1, 1977, and each March 1, thereafter.

(c) As an alternative to subdivision (b), a person first employed to any position described in subdivision (a) after October 1, 1977, may elect to become an "employee" as defined in paragraph (5) of subdivision (a) of Section 22772 within 90 days of commencing that employment.

Any person who is a member of a health and welfare plan described in subdivision (b) who loses eligibility for participation in the plan, or if the plan of which the person is a member ceases to exist, that person may elect to become an "employee," as



defined in paragraph (5) of subdivision (a) of Section 22772, within 90 days of the date that eligibility is lost or the plan ceases to exist.

(d) In no instance shall the wages and the health and welfare contributions paid by the state to the persons covered under this section be less than the dollar amount paid as of the effective date of this section.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 11. Section 16391.1 of the Government Code is amended to read:

16391.1. The Controller may transfer to the State Pay Roll Revolving Fund the contributions required by Sections 20751, 20752, 20782, 20783, 22881, and 22883, and upon certification by the Board of Administration of the Public Employees' Retirement System in accordance with Sections 20754 and 20784, may transfer from the State Pay Roll Revolving Fund to the Public Employees' Retirement Fund and the Old Age and Survivors' Insurance Revolving Fund the amounts of contributions so certified.

SEC. 12. Section 19849.15 of the Government Code is amended to read:

19849.15. (a) Notwithstanding Section 22846, the state employer shall, upon the death of an employee while in state service, continue to pay employer contributions for health, dental, and vision benefits for a period not to exceed 120 days beginning in the month of the employee's death. The surviving spouse or other eligible family member shall be advised of all rights and obligations during this period regarding the continuation of health and dental benefits as an annuitant by the Public Employees' Retirement System. The surviving spouse or other eligible family member shall also be notified by the department during this period regarding COBRA rights for the continuation of vision benefits.

(b) This section shall apply to state employees in state bargaining units that have agreed to this section in a memorandum



of understanding, state employees excluded from the definition of “state employee” in subdivision (c) of Section 3513, and officers or employees of the executive branch of state government who are not members of the civil service.

SEC. 13. Section 19871 of the Government Code is amended to read:

19871. (a) Except as provided in Section 19871.2, when a state officer or employee is temporarily disabled by illness or injury arising out of and in the course of state employment, he or she shall become entitled, regardless of his or her period of service, to receive industrial disability leave and payments for a period not exceeding 52 weeks within two years from the first day of disability. These payments shall be in the amount of the employees full pay less withholding based on his or her exemptions in effect on the date of his or her disability for federal income taxes, state income taxes, and social security taxes not to exceed 22 working days of disability subject to Section 19875. Thereafter, the payment shall be two-thirds of full pay. Payments shall be additionally adjusted to offset disability benefits, excluding those disability benefits payable from the State Teachers’ Retirement System, the employee may receive from other employer-subsidized programs, except that no adjustment may be made for benefits to which the employee’s family is entitled up to a maximum of three-quarters of full pay. Contributions to the Public Employees’ Retirement System or the State Teachers’ Retirement System shall be deducted in the amount based on full pay. Discretionary deductions of the employee including those for coverage under a state health benefits plan in which the employee is enrolled shall continue to be deducted unless canceled by the employee. State employer contributions to the Public Employees’ Retirement System and state employer normal retirement contributions to the State Teachers’ Retirement System shall be made on the basis of full pay and the state contribution pursuant to Sections 22871 and 22885 because of the employee’s enrollment in a health benefits plan shall continue.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the



expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 14. Section 21450 of the Government Code is amended to read:

21450. This system shall provide to any member who requests materials relating to retirement, a written explanation of the effects, if any, of each possible decision relating to the selection of optional settlements, beneficiaries, and survivor benefits upon health benefits that are provided pursuant to Part 5 (commencing with Section 22750).

SEC. 15. Section 21506 of the Government Code is amended to read:

21506. Any monthly allowance payable to a person, that had accrued and remained unpaid at the time of his or her death, or any uncashed warrant issued prior to the date of death of the person that has been returned to this system, or any balance of prepaid complementary health premiums received pursuant to Section 21691 or prepaid complementary annuitant health plan premiums received pursuant to Section 22802, shall be paid in the following order:

(a) In the event of the death of a retired person, to one of the following:

(1) The beneficiary entitled to payment in accordance with an optional settlement chosen by the member.

(2) The survivor entitled to payment of the survivor continuance benefit provided under Section 21624.

(3) The beneficiary entitled to receive the lump-sum death benefit provided upon death of a retired person if the person had not chosen an optional settlement and there was no survivor who was entitled to receive the survivor continuance benefit.

(b) In the event of the death of a person receiving a survivor benefit, that benefit shall be paid to the beneficiary designated by the survivor of a member under Section 21491.

(c) If there is no beneficiary entitled to receive payment under either subdivision (a) or (b), the benefit shall be paid to either the estate of the deceased person or the duly authorized representative or representatives of the estate upon receipt by this system of a court order appointing an executor, administrator, or personal representative. If the estate does not require probate and the



deceased person had a trust, benefits may, in the judgment of the board, be paid to the successor trustee as named in the trust.

(d) If there is no beneficiary entitled to receive payment of benefits under subdivision (a), (b), or (c), the benefits shall be paid to the surviving next of kin of the person pursuant to the order of distribution specified in Section 21493.

SEC. 16. Section 21551 of the Government Code is amended to read:

21551. Notwithstanding any other provision of this part, the benefits payable to a surviving spouse pursuant to Sections 21541, 21546, 21547, 21548, and Article 3 (commencing with Section 21570), do not cease upon remarriage if the remarriage occurs on or after September 19, 1989, for surviving spouses of deceased state members, January 1, 1991, for surviving spouses of deceased school members, upon the date a contracting agency elected to be subject to this section for deceased local members, or January 1, 2000, for spouses of deceased local members if the contracting agency has not elected to be subject to this section. Any surviving spouse who elected the reduction specified in Section 21500 as it read prior to January 1, 2000, shall be restored to the lifetime allowance to which he or she was originally entitled effective September 19, 1989, for state members, January 1, 1991, for school members, upon the date a contracting agency elected to be subject to this section, or January 1, 2000, if the contracting agency has not elected to be subject to this section.

Pursuant to Section 22822, the surviving spouse who remarries may not enroll his or her new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse.

Any surviving spouse whose allowance has been discontinued as a result of remarriage prior to the effective date of this section shall have that allowance restored and resumed on January 1, 2000, or the first of the month, following receipt by the board of a written application from the spouse for resumption of the allowance, whichever is later. The amount of the benefits due shall be calculated as though the allowance had never been reduced or discontinued because of remarriage, and is not payable for the period between the date of discontinuance because of remarriage and January 1, 2000. The board has no duty to identify, locate, or



notify a spouse who previously had his or her allowance discontinued because of remarriage.

SEC. 17. Section 21635 of the Government Code is amended to read:

21635. Notwithstanding any other provisions of this part, survivor continuance allowances payable to surviving spouses upon death after retirement of a member do not cease upon remarriage if the remarriage occurs on or after January 1, 1985, in the case of local members of contracting agencies that elected to be subject to this section, or all members on or after January 1, 2000. However, pursuant to Section 22822, the surviving spouse may not add the new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse. The survivor continuance allowance shall be restored if that allowance has been discontinued upon the spouse's remarriage prior to January 1, 2000.

(a) The allowance shall be resumed on January 1, 2000, or the first of the month, following receipt by the board of a written application from the spouse for resumption of the allowance, whichever is later.

(b) The amount of the benefits due shall be calculated as though the allowance had never been discontinued because of remarriage, and is not payable for the period between the date of discontinuance because of remarriage and the effective date of resumption.

(c) The board has no duty to identify, locate, or notify a spouse who previously had his or her allowance discontinued because of remarriage.

SEC. 18. Section 21635.5 of the Government Code is amended to read:

21635.5. (a) Notwithstanding any other provision of this part, on and after the effective date of this section, the remarriage of the surviving spouse of a deceased local safety member who was a firefighter, or peace officer as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, whose death after retirement was due to injuries which resulted in industrial disability retirement, may not result in the reduction or cessation of any survivor continuance if the remarriage occurs on or after January 1, 1998. However, pursuant to Section 22822, the surviving spouse may not add the new spouse



or stepchildren as family members under the continued health benefits coverage of the surviving spouse.

(b) The surviving spouse of a deceased retired local safety member whose death after retirement was due to injuries which resulted in industrial disability retirement who previously lost entitlement due to remarriage shall be entitled to resume payment of the benefit effective either on January 1, 1999, or the first of the month following receipt by the board of a written application for resumption of benefits, whichever date is later. The amount of the benefit payable shall be calculated as though the benefit had been paid without interruption from the date of remarriage through the benefit resumption effective date.

(c) The board has no duty to identify, locate, or notify a remarried spouse who previously lost entitlement about the resumption of benefits provided in this section. The board has no duty to provide the name or address of any remarried spouse to any person, agency, or entity for the purpose of notifying those who may be eligible under this section.

(d) Nothing in this section may be construed to imply that the benefits addressed will be paid retroactively.

SEC. 19. Section 21690 of the Government Code is repealed.

SEC. 20. Section 21691 of the Government Code is repealed.

SEC. 21. Section 21692 of the Government Code is repealed.

SEC. 22. Part 5 (commencing with Section 22750) is added to Division 5 of Title 2 of the Government Code, to read:

PART 5. THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT

CHAPTER 1. PUBLIC EMPLOYEES' HEALTH BENEFITS

Article 1. General Provisions

22750. This part may be cited as the Public Employees' Medical and Hospital Care Act. As used in any contract or statute, the term "Meyers-Geddes State Employees' Medical and Hospital Care Act" shall be construed to refer to and mean the Public Employees' Medical and Hospital Care Act.

22751. It is the purpose of this part to do all of the following:

(a) Promote increased economy and efficiency in state service.

(b) Enable the state to attract and retain qualified employees by providing health benefit plans similar to those commonly provided in private industry.

(c) Recognize and protect the state's investment in each permanent employee by promoting and preserving good health among state employees.

22753. The provisions of this part shall be controlling over any memorandum of understanding reached pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, except as otherwise provided by this part.

22755. The provisions of this part shall become operative with respect to employees and annuitants of the University of California upon filing with the board a resolution adopted by the Regents of the University of California electing to be subject to the provisions of this part.

Article 2. Definitions

22760. "Annuitant" means:

(a) A person who has retired within 120 days of separation from employment and who receives a retirement allowance under any state or University of California retirement system to which the state was a contributing party.

(b) A surviving family member receiving an allowance in place of an annuitant who has retired as provided in subdivision (a), or as the survivor of a deceased employee under Section 21541, 21546, 21547, or 21547.7, or similar provisions of any other state retirement system.

(c) A person who has retired within 120 days of separation from employment with a contracting agency as defined in Section 22768 and who receives a retirement allowance from the retirement system provided by the employer, or a surviving family member who receives the retirement allowance in place of the deceased.

(d) A judge who receives the benefits provided by subdivision (e) of Section 75522.

(e) A person who was a state member for 30 years or more and who, at the time of retirement, was a local member employed by a contracting agency.



(f) A Member of the Legislature or an elective officer of the state whose office is provided by the California Constitution, who has at least eight years of credited service, and who meets the following conditions:

(1) Permanently separates from state service on or after January 1, 1988, and not more than 10 years before or 10 years after his or her minimum age for service retirement, or is an inactive member of the Legislators' Retirement System pursuant to Section 9355.2.

(2) Receives a retirement allowance under a state retirement system supported in whole or in part by state funds other than the University of California Retirement System.

(g) An exempt employee who meets all of the following conditions:

(1) Has at least 10 years of credited state service that includes at least two years of credited service while an exempt employee.

(2) Permanently separates from state service on or after January 1, 1988, and not more than 10 years before or 10 years after his or her minimum age for service retirement.

(3) Receives a retirement allowance under a state retirement system supported in whole or in part by state funds other than the University of California Retirement System.

(h) A person receiving a survivor allowance pursuant to Article 3 (commencing with Section 21570) of Chapter 14 of Part 3 provided that he or she was eligible to enroll in a health benefit plan on the date of the member's death, on whose account the survivor allowance is payable.

(i) (1) A family member of a deceased retired member of the State Teachers' Retirement Plan, if the deceased member meets the following conditions:

(A) Retired within 120 days of separation from employment.

(B) Retired before the member's school employer elected to contract for health benefit coverage under this part.

(C) Prior to his or her death, received a retirement allowance that did not provide for a survivor allowance to family members.

(2) The family member must elect coverage as an annuitant within one calendar year from the date that the deceased member's school employer elected to contract for health benefit coverage under this part.



22762. “Board” means the Board of Administration of the Public Employees’ Retirement System.

22764. “Carrier” means a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner, a medical society or other medical group, a nonprofit membership corporation lawfully operating under Section 10270.5 of the Insurance Code, a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act (42 U.S.C. Sec. 201 et seq.) that is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

22766. “Complementary annuitant premium” means the additional amount to be paid by an annuitant whose allowance falls below the premium required to maintain enrollment in the chosen health benefit plan.

22768. “Contracting agency” means an entity that meets the eligibility criteria set forth in Section 22920 that has elected to be subject to this part pursuant to Section 22922.

22770. “Domestic partner” means an adult in a domestic partnership, as defined in Section 22771, with an employee or annuitant of an employer subject to this part, who is eligible for enrollment pursuant to Section 22818.

22771. A “domestic partnership” means either of the following:

(a) Two people who meet all of the criteria set forth in Section 297 of the Family Code.

(b) Two people who meet all of the criteria of a domestic partnership, as defined by the governing board of a contracting agency, if the contracting agency adopted that definition prior to January 1, 2000.

22772. (a) “Employee” means:

(1) An officer or employee of the state or of any agency, department, authority, or instrumentality of the state, including the University of California.

(2) An employee who is employed by a contracting agency, including, but not limited to, an officer or official of a contracting



agency if the officer or official participates in the retirement system provided by the employer.

(3) An annuitant receiving a retirement allowance pursuant to Section 21228 who is employed by a contracting agency.

(4) A teaching associate, lecturer, coach, or interpreter employed by the California State University who is appointed to work in an academic year classification for at least six weighted teaching units for one semester, or for at least six weighted teaching units for two or more consecutive quarter terms. This paragraph does not apply to a state member employed by the California State University, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 or authorized by the Trustees of the California State University for employees excluded from collective bargaining.

(5) All employees in job classes specified in subdivision (a) of Section 14876.

(b) Except as otherwise provided by this part, “employee” does not include persons employed on an intermittent, irregular, or less than half-time basis, or employees similarly situated.

22773. “Employer” means the state or any contracting agency that is subject to this part.

22774. “Exempt employee” means an employee exempt from civil service pursuant to subdivision (a), (c), (f), or (g) of Section 4 of Article VII of the California Constitution, or an exempt employee of the Attorney General or Legislative Counsel appointed pursuant to subdivision (m) of Section 4 of Article VII of the California Constitution.

22775. “Family member” means any of the following:

(a) An employee’s or annuitant’s spouse and any unmarried child, including an adopted child, a stepchild, or recognized natural child. The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

(b) Notwithstanding any other provision of law, a domestic partner of an employee or annuitant shall be considered a family member for purposes of Section 22810, subdivision (a) of Section 22814, Sections 22822, 22830, 22837, 22841, 22842, 22843, 22844, subdivision (a) of Section 22846, and Sections 22847, 22863, 22871, 22879, 22890, 22911, and 22937.



22777. “Health benefit plan” means any program or entity that provides, arranges, pays for, or reimburses the cost of health benefits.

22778. “Medicare health benefit plan” means a health benefit plan that provides benefits in coordination with Medicare Parts A and B, including, but not limited to, a managed Medicare health benefit plan providing coverage through the Medicare+Choice program or a Medicare supplement health benefit plan that provides coverage in coordination with the traditional Medicare program.

22779. “Out-of-state employee” means an employee permanently assigned to perform his or her duties outside of the state. An employee is permanently assigned out-of-state if the assignment is intended to exceed four months.

22781. “Prefunding” means the making of periodic payments by an employer to partially or completely amortize the unfunded actuarial obligation of the employer for health benefits provided to annuitants and their family members.

22783. “School employer” means a contracting agency that is a school district, county board of education, personnel commission of a school district, a county superintendent of schools, or a community college district.

22785. “Special district” means a nonprofit, self-governed public agency located within the state, comprised solely of public employees, and performing a governmental function.

22787. “System” means the California Public Employees’ Retirement System.

Article 3. The Board of Administration

22790. The provisions of this part shall be administered by the board. The members of the board shall receive no salary for performance of their duties and responsibilities under this part, but shall be reimbursed for actual and necessary expenses incurred in connection therewith.

22792. All laws governing the organization, procedures, and administrative duties and responsibilities of the board shall be applicable to the board in its administration of the provisions of this part, to the extent that they are not in conflict with or inconsistent with the provisions of this part.



22793. The board shall, in accordance with this part, approve health benefit plans, and may contract with carriers offering health benefit plans.

22794. The board shall have all powers reasonably necessary to carry out the authority and responsibilities expressly granted or imposed upon it under this part.

22795. Irrespective of the provisions of Sections 1090 and 1091, a board member who is an officer of a life insurer may participate in all board activities in administering the provisions of this part, except that he or she may not vote on the question of whether a contract should be entered into or approval should be given concerning any health benefit plan in which the board member has a financial interest, as defined in the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

22796. (a) The board shall, pursuant to the Administrative Procedure Act, adopt all necessary rules and regulations to carry out the provisions of this part including, but not limited to, any of the following:

(1) Regulations establishing the following:

(A) The scope and content of a basic health benefit plan.

(B) Reasonable minimum standards for health benefit plans.

(C) The time, manner, method, and procedures for determining whether approval of a health benefit plan should be withdrawn.

(2) Regulations pertaining to any other matters that the board may be expressly authorized or required to provide for by rule or regulation by the provisions of this part.

(b) In adopting rules and regulations, the board shall be guided by the needs and welfare of individual employees, particular classes of employees, the state and contracting agencies, as well as prevailing practices in the field of medical and hospital care.

22797. The board or an authorized representative may perform audits of each employer and may, at a specified time and place, require the employer to provide information or make available for examination and copying books, papers, data, and records, including, but not limited to, personnel and payroll records, as deemed necessary by the board to determine compliance with the provisions of this part. The information obtained from an employer shall remain confidential.



Article 4. Eligibility

22800. (a) An employee or annuitant is eligible to enroll in an approved health benefit plan, in accordance with this part and the regulations of the board.

(b) Regulations may provide for the exclusion of employees on the basis of the nature, conditions, and type of their employment, including, but not limited to, short-term appointments, seasonal or intermittent employment, and employment of a like nature. However, no employee may be excluded solely on the basis of the hazardous nature of the employment.

22802. (a) An annuitant whose retirement allowance is not sufficient to pay his or her required contribution for the health benefit plan in which he or she is enrolled may only remain enrolled if the annuitant pays to the board the balance of the contributions plus the related administrative costs, as determined by the board.

(b) (1) The annuitant shall pay the complementary annuitant premium by remitting to the board quarterly payments in advance, or by alternative monthly payment as determined by the board.

(2) The board may charge each annuitant who elects to pay the complementary annuitant premium an initial setup charge and a monthly maintenance charge, in amounts sufficient to ensure the ongoing support of the complementary annuitant premium program.

(3) If payments are not received by the 10th of the month for the following month, coverage shall be terminated and may not be resumed until the next open enrollment period.

(c) Upon receipt of a written application, the benefits provided by this section shall commence on the first day of the month following receipt of the application and the payment required by the board.

(d) The board has no duty to identify, locate, or notify any annuitant who may be eligible for the benefit provided by this section.

(e) Any complementary annuitant premium or any balance of unpaid health benefit plan premiums that accrues and remains unpaid at the time of the death of an annuitant shall be paid in accordance with the sequence prescribed in Section 21506.



(f) All moneys received pursuant to this section shall be deposited in the Public Employees' Contingency Reserve Fund in the account provided by subdivision (e) of Section 22910.

22803. An out-of-state employee shall be eligible for enrollment, in accordance with reasonable rules as the board may prescribe, to receive the benefits provided by this part.

22805. An employee receiving full-time service credit pursuant to Section 20900 may continue enrollment in a health benefit plan.

22806. (a) With respect to state officers and employees, a permanent intermittent employee who has an appointment of more than six months and works at least half-time shall be eligible to enroll in a health benefit plan within 60 calendar days after having been credited with a minimum of 480 paid hours within a designated six-month period. The designated six-month periods are January 1 to June 30, inclusive, and July 1 to December 31, inclusive, of each calendar year. To continue benefits, a permanent intermittent employee must be credited with a minimum of 480 paid hours in a designated six-month period or 960 paid hours in two consecutive periods.

(b) Permanent intermittent employees who are represented by State Bargaining Unit 6 may enroll in a health benefit plan within 60 calendar days following graduation from the academy of the Department of Corrections or the Department of the Youth Authority. To continue benefits, a permanent intermittent employee must be credited with a minimum number of hours, as provided in subdivision (a).

22807. (a) Notwithstanding subdivision (b) of Section 22772, a contracting agency may, by resolution filed with the board, deem all permanent or regular employees, except members of the State Teachers' Retirement Plan, who have an appointment of six months or longer but are employed less than half-time, to be employees subject to this part.

(b) Notwithstanding subdivision (b) of Section 22772, a contracting agency with employees who are members of the State Teachers' Retirement Plan may, by resolution filed with the board, deem any of the following to be employees subject to this part:

(1) Regular, permanent, probationary, or temporary employees or substitutes who have an appointment for at least a semester, for



six months, or for half of the school year, but are employed less than half-time.

(2) Substitutes who have an appointment for 100 days or more in the school year.

22808. An employee enrolled in a health benefit plan under this part shall be entitled to have his or her coverage and the coverage of any family members continued for the duration of a leave of absence, upon his or her application and upon assuming payments of the contributions otherwise required of the employer, if any of the following apply:

(a) A leave of absence is granted to the employee without pay under the State Civil Service Act and the rules or regulations of the Department of Personnel Administration, or other comparable leave.

(b) The employee is laid off and has not yet obtained other employment, for a period of up to one year.

(c) The employee is employed by the California State University and is granted a leave of absence for more than half-time.

22809. An employee of a contracting agency and his or her family members may continue enrollment in a health benefit plan under this part if the employee is granted a leave of absence by the contracting agency for military duty. The coverage may continue for up to one year.

22810. A Member of the Legislature may enroll in a health benefit plan. The contributions of the member shall be the total cost of his or her coverage and the coverage of any family members, less the amount contributed pursuant to Section 8901.6 by the state.

22811. Notwithstanding any other provision of this part, a former Member of the Legislature who has served six or more years as a Member of the Legislature may elect, within 60 days after permanent separation from state service, to enroll or continue enrollment in a health benefit plan and dental care plan provided to annuitants. Upon that election, the former member shall pay the total premiums related to that coverage and an additional 2 percent thereof for the administrative costs incurred by the board and the Department of Personnel Administration in administering this section.



The health and dental benefits shall be provided without discrimination as to premium rates or benefits coverage. A person who subsequently terminates his or her coverage under this section may not reenroll pursuant to this section.

22812. (a) A former legislative employee who separates from employment while enrolled in a health benefit plan provided by his or her employer, by reason of layoff, involuntary termination, or retirement may enroll in a health benefit plan within 60 days of separation from employment and, thereupon, shall be deemed to have been enrolled on the date of the separation from employment.

(b) An eligible survivor of a legislative employee who was enrolled in a health benefit plan provided by the employer at the time of death may, within 60 days of the death of the employee, enroll in a health benefit plan and, thereupon, shall be deemed to have been enrolled on the date of the employee's death.

22814. (a) A judge who retires pursuant to Chapter 11 (commencing with Section 75000) of Title 8, but is not yet receiving a pension, may continue his or her coverage and the coverage of any family members for the duration of the leave of absence, upon his or her application and upon assuming payment of the contributions otherwise required of the employer.

(b) (1) A judge who retires pursuant to subdivision (b) of Section 75521 and has not attained 65 years of age may continue his or her coverage and the coverage of any family members upon assuming payment of the contributions otherwise required of the employer. The judge shall also pay an additional 2 percent of the premium amount to cover administrative expenses incurred by the system or the Department of Personnel Administration.

(2) An election to continue coverage under this subdivision shall be made within 60 days of permanent separation. A retired judge who cancels that coverage may not reenroll.

(3) Upon attaining 65 years of age, a retired judge who has continuous and uninterrupted coverage pursuant to this subdivision shall be entitled to the applicable employer contribution.

22815. (a) The following persons are eligible for enrollment as provided in this section:



(1) A Member of the Legislature or an elective officer of the state whose office is provided by the California Constitution who meets all of the following conditions:

(A) Has at least eight years of credited service.

(B) Permanently separates from state service on or after January 1, 1988, and more than 10 years before his or her minimum age for service retirement, or is an inactive member of the Legislators' Retirement System pursuant to Section 9355.2.

(C) Elects to remain a member of a state retirement system supported in whole or in part by state funds, other than the University of California Retirement System.

(2) An exempt employee who meets all of the following conditions:

(A) Has at least 10 years of credited state service that includes at least two years of credited service while an exempt employee.

(B) Permanently separates from state service on or after January 1, 1988, and more than 10 years before his or her minimum age for service retirement.

(C) Elects to remain a member of a state retirement system supported in whole or in part by state funds, other than the University of California Retirement System.

(b) During the period he or she is not yet receiving a retirement allowance, a person described by subdivision (a) may continue enrollment in a health benefit plan or dental care plan without discrimination as to premium rates or benefit coverage, upon assuming payment of the contributions otherwise required of the former employer on account of his or her enrollment and the employee contribution. The person shall also pay an additional 2 percent of the premium amount to cover administrative expenses incurred by the system or the Department of Personnel Administration. An election to continue coverage under this section shall be made within 60 days of permanent separation.

(c) A person who receives coverage pursuant to this subdivision, and subsequently terminates that coverage, may not be allowed to reenroll and may not enroll as an annuitant pursuant to subdivision (d).

(d) Upon retirement and receipt of a retirement allowance, a person described in subdivision (b) may elect to continue enrollment in a health benefit plan or dental care plan without discrimination as to premium rates or benefit coverage, at which



time the state shall assume payment of the employer contribution and the person shall thereafter be deemed an annuitant.

(e) The board has no duty to locate or notify any person who may be eligible to enroll pursuant to this section.

22816. (a) A person who meets all of the criteria of an annuitant, as defined in subdivision (f) or (g) of Section 22760, other than the condition of receiving a retirement allowance under a retirement system supported in whole or in part by state funds, may continue enrollment in a health benefit plan or dental care plan provided to annuitants without discrimination as to premium rates or benefits coverage, upon assuming payment of the contributions otherwise required of the former employer on account of his or her enrollment and the employee contribution. The person shall also pay an additional 2 percent of the premium amount to cover administrative expenses incurred by the system or the Department of Personnel Administration. An election to continue coverage under this section shall be made within 60 days of permanent separation.

(b) A person who receives coverage pursuant to this subdivision who subsequently terminates that coverage may not reenroll. However, termination under this subdivision does not affect an annuitant's rights under Section 22817. The benefits authorized by Section 22817 and this section are separate and distinct benefits.

(c) The board has no duty to locate or notify any person who may be eligible to enroll pursuant to this section.

22817. (a) An annuitant, as defined in subdivision (f) or (g) of Section 22760, may, upon assuming payment of the employee contribution, enroll in a health benefit plan or dental care plan without discrimination as to premium rates or benefit coverage, at which time the state shall assume payment of the employer contribution.

(b) The board has no duty to locate or notify any person who may be eligible to enroll pursuant to this section.

22818. (a) The following persons are eligible to enroll their domestic partner as a family member in a health benefit plan:

(1) Employees of a contracting agency that has amended its contract with the board to elect to provide health care coverage to the domestic partners of its employees and annuitants, pursuant to Section 22929.



(2) State employees who are members of a bargaining unit or are retired from a bargaining unit if there is a signed memorandum of understanding between the state and the recognized employee organization to adopt the benefits accorded under this section, and the Department of Personnel Administration makes this section simultaneously applicable to all eligible annuitants retired from the bargaining unit.

(3) Members of the system who are employed by the Assembly, the Senate, or the California State University, only if the Assembly Committee on Rules, the Senate Committee on Rules, or the Board of Trustees of the California State University, respectively, makes this section applicable to its employees.

(4) Members of the system who are state employees of the judicial branch, and judges and justices who are members of the Judges' Retirement System or the Judges' Retirement System II, if the Judicial Council makes this section applicable to those persons.

(5) Employees excluded from the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1) upon adoption by the Department of Personnel Administration of regulations to implement employee benefits under this section for those persons. Regulations adopted or amended pursuant to this paragraph are not subject to review and approval by the Office of Administrative Law pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2) and shall become effective immediately upon filing with the Secretary of State.

(b) In order to receive any benefit provided by this part, an employee or annuitant shall provide the board all of the following:

(1) Proof in a manner designated by the board that the employee or annuitant and his or her domestic partner have filed a valid Declaration of Domestic Partnership pursuant to Section 298.5 of the Family Code or have established a valid domestic partnership, as defined by his or her contracting agency in accordance with subdivision (b) of Section 22771.

(2) A signed statement indicating that the employee or annuitant agrees that he or she may be required to reimburse the employer, the health benefit plan, and the system for any expenditures made for medical claims, processing fees, administrative expenses, and attorney's fees on behalf of the



domestic partner, if any of the submitted documentation is found to be incomplete, inaccurate, or fraudulent.

(c) The employee or annuitant shall notify the employer or the board when a domestic partnership has terminated, as required by subdivision (c) of Section 299 of the Family Code, or as required by his or her contracting agency in accordance with subdivision (b) of Section 22771.

22818.5. (a) A domestic partner shall be considered a family member for purposes of becoming an annuitant pursuant to Section 22760.

(b) A child of the surviving domestic partner who was eligible for enrollment in a health benefit plan as a family member prior to the death of the employee or annuitant shall be eligible for health coverage under this part as a family member if the surviving domestic partner is enrolled in a health benefit plan.

(c) A surviving domestic partner of a deceased employee or annuitant may not enroll additional family members in a health benefit plan.

22819. (a) A family member of a deceased employee of a contracting agency who is validly enrolled or is eligible for enrollment hereunder on the date of the employee's death is deemed to be an annuitant under Section 22760, pursuant to regulations prescribed by the board. A domestic partner may not become an annuitant pursuant to this section.

(b) A contracting agency shall remit the amounts required under Section 22901 as well as the total amount of the premium required from the employer and enrollees hereunder in accordance with regulations of the board. Enrollment of the annuitant and eligible family members shall be continuous following the death of the employee, or the effective date of enrollment, so long as the surviving family members meet the eligibility requirements of Section 22775 and regulations pertinent thereto. Failure to timely pay the required premiums and costs or the cancellation of coverage by the annuitant shall terminate coverage without the option to reenroll. The contracting agency may elect to require the family members to pay all or any part of the employer premium for enrollment.

(c) This section shall apply to a contracting agency only upon the filing with the board of a resolution of its governing board electing to be subject to this section.



22820. (a) Upon the death, on or after January 1, 2002, of a firefighter employed by a county, city, city and county, district, or other political subdivision of the state, a firefighter employed by the Department of Forestry and Fire Protection, or a peace officer as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.38, 830.39, 830.4, 830.5, 830.55, or 830.6 of the Penal Code, if the death occurred as a result of injury or disease arising out of and in the course of his or her official duties, the surviving spouse or other eligible family member of the deceased firefighter or peace officer, if uninsured, is deemed to be an annuitant under Section 22760 for purposes of enrollment. All eligible family members of the deceased firefighter or peace officer who are uninsured may enroll in a health benefit plan of the surviving spouse's choice. However, an unmarried child of the surviving spouse is not eligible to enroll in a health benefit plan under this section if the child was not a family member under Section 22775 and regulations pertinent thereto prior to the firefighter's or peace officer's date of death. The employer of the deceased firefighter or peace officer shall notify the board within 10 days of the death of the employee if a spouse or family member may be eligible for enrollment in a health benefit plan under this section.

(b) Upon notification, the board shall promptly determine eligibility and shall forward to the eligible spouse or family member the materials necessary for enrollment. In the event of a dispute regarding whether a firefighter's or peace officer's death occurred as a result of injury or disease arising out of and in the course of his or her official duties as required under subdivision (a), that dispute shall be determined by the Workers' Compensation Appeals Board, subject to the same procedures and standards applicable to hearings relating to claims for workers' compensation benefits. The jurisdiction of the Workers' Compensation Appeals Board under this section is limited to the sole issue of industrial causation and this section does not authorize the Workers' Compensation Appeals Board to award costs against the system.

(c) (1) Notwithstanding any other provision of law, but except as otherwise provided in subdivision (d), the state shall pay the employer contribution required for enrollment under this part for the uninsured surviving spouse of a deceased firefighter or peace



officer for life, and the other uninsured eligible family members of a deceased firefighter or peace officer, provided the family member meets the eligibility requirements of Section 22775 and regulations pertinent thereto.

(2) The contribution payable by the state for each uninsured surviving spouse and other uninsured eligible family members shall be adjusted annually and be equal to the amount specified in Section 22871.

(3) The state's contribution under this section shall commence on the effective date of enrollment of the uninsured surviving spouse or other uninsured eligible family members. The contribution of each surviving spouse and eligible family member shall be the total cost per month of the benefit coverage afforded him or her under the plan less the portion contributed by the state pursuant to this section.

(d) The cancellation of coverage by an annuitant, as defined in this section, shall be final without option to reenroll, unless coverage is canceled because of enrollment in an insurance plan from another source.

(e) For purposes of this section, "surviving spouse" means a husband or wife who was married to the deceased firefighter or peace officer on the deceased's date of death and for a continuous period of at least one year prior to the date of death.

(f) For purposes of this section, "uninsured" means that the surviving spouse is not enrolled in an employer-sponsored health plan under which the employer contribution covers 100 percent of the cost of health care premiums.

(g) The board has no duty to identify, locate, or notify any surviving spouse or eligible family member who may be or may become eligible for benefits under this section.

22822. No person is eligible for enrollment in a health benefit plan pursuant to this part as a family member if he or she becomes a family member of a surviving spouse of a deceased member of the system after the date of the member's death.

22823. (a) Notwithstanding Section 10270.5 of the Insurance Code, an employee who is enrolled in a board-approved health benefit plan sponsored by an employee organization that is the exclusive representative pursuant to the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1) and who terminates his or her membership in the respective



employee organization shall become ineligible for enrollment in the health benefit plan.

(b) Notwithstanding subdivision (a), the employee may continue enrollment in the employee organization health benefit plan until he or she is notified by the employee organization of the loss of eligibility. Upon notification of the loss of eligibility, the employee within 60 days may change his or her enrollment to another health benefit plan for which the employee is eligible.

22825. (a) An annuitant is not eligible to participate in a health benefit plan offered by the California Association of Highway Patrolmen unless the annuitant was enrolled in the California Highway Patrolmen Health Benefits Trust for a minimum of five years as an active employee.

(b) Notwithstanding subdivision (a), an annuitant that retires for disability before becoming eligible for service retirement may enroll in a health benefit plan offered by the California Association of Highway Patrolmen if otherwise eligible.

(c) Former members of the California State Police are eligible to participate in a health benefit plan offered by the California Association of Highway Patrolmen, pursuant to subdivision (a) or (b). Former members of the California State Police who transferred to the California Highway Patrol and retired before January 1, 2003, are exempt from the five-year requirement.

(d) This section only applies to persons who first became employees of the California Highway Patrol on or after January 1, 1994.

22826. For purposes of this part, service credit shall be determined according to the rules of the retirement system provided by the employer in which the employee participates. In the case of elected officials not eligible for participation in a retirement system, service credit shall be determined according to the number of years in office. In the elected official's final year of office, a completed term of office shall be sufficient to earn one year of service credit for that final year of office.

Article 5. Enrollment and Coverage

22830. (a) An employee or annuitant, under eligibility rules as prescribed by board regulations, may enroll in a health benefit



plan approved or maintained by the board either as an individual or for self and family.

(b) Enrollment shall serve as authorization of the deduction of the contributions required under this part from the salary of an employee or allowance of an annuitant.

22831. (a) An annuitant may, as provided by regulations of the board, continue his or her enrollment, enroll within 60 days of retirement, enroll within 60 days of the death of the member, or enroll during any future open enrollment period without discrimination as to premium rates or benefit coverage. If the survivor of an annuitant is also an annuitant as defined in this part, he or she may enroll within 60 days of the annuitant's death or during any future open enrollment period, as provided by regulations of the board.

(b) Board rules and regulations shall provide whatever provisions necessary to eliminate or minimize the impact of adverse selection because of the enrollment of annuitants that would affect any health benefit plans approved or maintained. This may include the reimbursement of surcharges for late enrollment in Part B of Medicare if the board determines that payment of the surcharge would be less costly than continued enrollment in a basic plan.

22832. A permanent intermittent employee and an employee who works less than full time may continue his or her enrollment while retired from state employment if he or she was enrolled prior to separation from state employment, and he or she lost eligibility prior to separation but continued his or her coverage under federal law.

22834. (a) An out-of-state employee who separates from service and becomes an annuitant may continue his or her enrollment in a board-approved out-of-state health benefit plan or may transfer to any other health benefit plan approved or maintained by the board, in which the employee would otherwise be eligible to enroll. He or she must enroll in that health benefit plan within 60 days in order for health benefits to continue.

(b) An annuitant who leaves this state and elects to reside in another state in which a health benefit plan is approved or maintained by the board may transfer his or her enrollment to that health benefit plan and shall be entitled to the employer contribution as provided in this part.



(c) When an out-of-state employee receiving benefits pursuant to Section 22803 is permanently reassigned to perform his or her duties within the state, the benefits may be continued only until the employee has had reasonable opportunity to enroll in a health benefit plan within the state that is approved or maintained by the board.

22836. An employee enrolled in a health benefit plan who is removed or suspended without pay and later reinstated or restored to duty on the ground that the removal or suspension was unjustified, unwarranted, or illegal may not be deprived of coverage or benefits for the interim. Any contributions otherwise payable by the employer that were actually paid by the employee shall be restored to the same extent and effect as though the removal or suspension had not taken place, and any other equitable adjustments necessary and proper under the circumstances shall be made in premiums, claims, and other charges.

22837. In the case of the death of an employee after an application has been filed for the enrollment of family members, but prior to the effective date of coverage, the family members are deemed to have been covered on the date of the death of the employee. If one of the family members becomes an annuitant, enrollment shall continue without discrimination as to premium rates or benefit coverage.

22839. Thirty days prior to, or 30 days following, retirement and during the open enrollment period, a state employee enrolled in a flexible benefit plan administered by the state shall be given the option to enroll in a health benefit plan approved or maintained by the board and receive the applicable employer contribution, if the state employee would otherwise qualify as an annuitant.

22840. (a) Notwithstanding any other provision of law, a state employee participating in a flexible benefits program administered by the state, who either terminated enrollment in a health benefit plan approved or maintained by the board in reliance on other medical coverage or who was enrolled in a board-approved health benefit plan for self only, may enroll in a health benefit plan without regard to the open enrollment period for either of the following purposes:

(1) For self only or self and all eligible dependents, if the flexible cash option is discontinued.



(2) To add all eligible dependents, upon loss of coverage, where the flexible cash option has not been selected.

(b) Enrollment shall be requested within 60 calendar days of the loss of other coverage and submitted to the system by the employer. The effective date of enrollment shall be the first day of the month following the loss of other coverage. Enrollment shall entitle the employee to receive the benefit of the applicable employer contribution.

22841. (a) A transfer of enrollment from one health benefit plan to another may be made by an employee or annuitant at times and under conditions as may be prescribed by regulations of the board.

(b) In the case of a health benefit plan in which services are provided by a limited panel of physicians associated with the plan, it is recognized that it may be impossible or impractical to maintain acceptable physician-patient relationships with particular employees, annuitants, or family members. In those cases, the employee or annuitant may submit the question of ability to maintain adequate physician-patient relationships for consideration under the grievance procedure provided pursuant to subdivision (d) of Section 22853. If the grievance procedure results in a determination that an adequate physician-patient relationship cannot reasonably be maintained, then the employee or annuitant may, in accordance with regulations of the board, change his or her enrollment to another health benefit plan without regard to physical condition, age, race, or other status.

22842. A change in coverage based on a change in the family status of an employee, annuitant, or family member enrolled in a health benefit plan may be requested by the employee or annuitant by filing an application within 30 days after the occurrence of the change in family status or at other times and according to conditions as may be prescribed by regulations of the board.

22843. If an employee or annuitant has a spouse or a domestic partner who is an employee or annuitant, each spouse or domestic partner may enroll as an individual. No person may be enrolled both as an employee or annuitant and as a family member. A family member may be enrolled in respect to only one employee or annuitant.

22844. Employees, annuitants, and family members who become eligible to enroll on or after January 1, 1985, for Part A



and Part B of Medicare may not be enrolled in a basic health benefit plan. If the employee, annuitant, or family member is enrolled in Part A and Part B of Medicare, he or she may enroll in a Medicare health benefit plan. This section does not apply to employees and family members that are specifically excluded from enrollment in a Medicare health benefit plan by federal law or regulation.

22846. (a) The regulations of the board shall provide for the beginning and ending dates of coverage of employees, annuitants, and family members enrolled in a health benefit plan. The regulations may permit coverage to continue, in addition to any temporary extension of coverage otherwise authorized under this part, until the end of the pay period in which an employee is separated from service or until the end of the month in which an annuitant ceases to be entitled to an allowance. In case of the death of an employee or annuitant, the regulations may permit a temporary extension of the coverage of family members for a period of more than 30 days.

(b) Notwithstanding any other provision of this part, an employee terminating his or her service by voluntary separation or due to dismissal for cause, prior to eligibility for retirement, may extend enrollment until the end of the month following the month in which his or her service is terminated.

22847. (a) Subject to subdivisions (b) and (c), if the eligible family members of a deceased peace officer or firefighter of a contracting agency, as described in subdivision (a) of Section 22820, are validly enrolled under this part on the date of the employee's death, the contracting agency shall continue to pay the employer contribution applicable to active employees for the continued enrollment of those eligible family members for a period not to exceed 120 days, beginning in the month of the employee's death.

(b) A contracting agency shall remit the amounts required under Section 22901 as well as the total amount of premium required from the employer under this part in accordance with regulations of the board. Enrollment of the eligible family members shall be continuous following the death of the employee.

(c) Notwithstanding subdivision (a), the contracting agency's obligation to pay the employer contribution pursuant to this section shall terminate upon either of the following:



(1) Enrollment of the eligible family members pursuant to Section 22820.

(2) A final determination of the board that the deceased employee's family members are not eligible to enroll or continue enrollment under this part.

(d) During the period that enrollment is continued pursuant to this section, the surviving spouse or eldest eligible family member shall retain the rights and obligations that otherwise would be applicable to the employee under this part.

22848. An employee or annuitant who is dissatisfied with any action or failure to act in connection with his or her coverage or the coverage of his or her family members under this part shall have the right of appeal to the board and shall be accorded an opportunity for a fair hearing. The hearings shall be conducted, insofar as practicable, pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3.

Article 6. Health Benefit Plans and Contracts

22850. (a) The board may, without compliance with any provision of law relating to competitive bidding, enter into contracts with carriers offering health benefit plans or with entities offering services relating to the administration of health benefit plans.

(b) The board may contract with carriers for health benefit plans or approve health benefit plans offered by employee organizations, provided that the carriers have operated successfully in the hospital and medical care fields prior to the contracting for or approval thereof. The plans may include hospital benefits, surgical benefits, inpatient medical benefits, outpatient benefits, obstetrical benefits, and benefits offered by a bona fide church, sect, denomination, or organization whose principles include healing entirely by prayer or spiritual means.

(c) Notwithstanding any other provision of this part, the board may contract with health benefit plans offering unique or specialized health services.

(d) The board may administer self-funded or minimum premium health benefit plans.

(e) The board may contract for or implement employee cost containment and cost reduction incentive programs that involve



the employee, the annuitant, and family members as active participants, along with the carrier and the provider, in a joint effort toward containing and reducing the cost of providing medical and hospital health care services to public employees. In developing these plans, the board, in cooperation with the Department of Personnel Administration, may request proposals from carriers and certified public employee representatives.

(f) Notwithstanding any other provision of this part, the board may do any of the following:

(1) Contract for, or approve, health benefit plans that charge a contracting agency and its employees and annuitants rates based on regional variations in the costs of health care services.

(2) Contract for, or approve, health benefit plans exclusively for the employees and annuitants of contracting agencies. State employees and annuitants may not enroll in these plans. The board may offer health benefit plans exclusively for employees and annuitants of contracting agencies in addition to or in lieu of other health benefit plans offered under this part. The governing body of a contracting agency may elect, upon filing a resolution with the board, to provide those health benefit plans to its employees and annuitants. The resolution shall be subject to mutual agreement between the contracting agency and the recognized employee organization, if any.

(g) The board shall approve any employee association health benefit plan that was approved by the board in the 1987–88 contract year or prior, provided the plan continues to meet the minimum standards prescribed by the board. The trustees of an employee association health benefit plan are responsible for providing health benefit plan administration and services to its enrollees. Notwithstanding any other provision of this part, the California Correctional Peace Officer Association Health Benefits Trust may offer different health benefit plan designs with varying premiums in different areas of the state.

(h) Irrespective of any other provision of law, the sponsors of a health benefit plan approved under this section may reinsure the operation of the plan with an admitted insurer authorized to write disability insurance, if the premium includes the entire prepayment fee.



22851. The board may enter into any joint purchasing arrangement with private or public entities, if the arrangement does all of the following:

- (a) Benefits persons receiving health coverage under this part.
- (b) Does not restrict the authority of the board or the state.
- (c) Does not jeopardize the system's tax status or its governmental plan status.

22852. (a) A contract for a health benefit plan shall be for a uniform term of at least one year and may be made automatically renewable in the absence of notice of termination by either party. Every contract for administrative services with respect to the operation of a self-funded health benefit plan administered by the board shall be on terms as the board deems necessary or desirable.

(b) The board shall determine the beginning and ending dates of a contract with the carrier of a health benefit plan and with an entity providing services in connection with the administration of a health benefit plan.

(c) Irrespective of an agreed upon termination date, the board may extend a contract for a reasonable period of time, subject to agreed upon terms and conditions.

22853. (a) Each contract shall contain a detailed statement of benefits offered and shall include maximums, limitations, exclusions, and other definitions of benefits as the board deems necessary or desirable.

(b) Except as otherwise provided by this part, a health benefit plan or contract may not exclude any person on account of physical condition, age, race, or other status. Except as otherwise provided by this part, transfer of enrollment to a health benefit plan shall be open to all employees and annuitants in accordance with Section 22841.

(c) A health benefit plan or contract shall offer to each employee or annuitant whose enrollment in the plan is terminated other than by cancellation of enrollment, voluntary separation from employment, or dismissal from employment for cause, the option to convert to an individual health benefits policy, without regard to health status, but within the time limit approved by the board. An employee or annuitant that exercises this option shall pay the full periodic charges of the individual policy according to the terms and conditions prescribed by the carrier and approved by the board.



(d) A health benefit plan or contract shall provide grievance procedures to protect the rights of employees and annuitants.

(e) The board shall provide a sufficient number of health benefit plans that provide chiropractic services so that every employee and annuitant has a reasonable opportunity to enroll in a health benefit plan that provides chiropractic services without prior referral by a physician.

22853.1. (a) A health benefit plan or contract shall provide coverage for a vaccine for acquired immune deficiency syndrome (AIDS) that is approved for marketing by the federal Food and Drug Administration and that is recommended by the United States Public Health Service.

(b) This section does not require a health benefit plan or contract to provide coverage for any clinical trials relating to an AIDS vaccine or for any AIDS vaccine that has been approved by the federal Food and Drug Administration in the form of an investigational new drug application.

(c) Nothing in this section is to be construed in any manner to limit or impede the board's power or responsibility to purchase the vaccine at the most cost-effective price.

22855. The board shall withdraw its approval of a health benefit plan if it finds that the plan or carrier is not in compliance with the standards prescribed therefor, that the plan or carrier has not paid or will be unable to pay claims accrued or to accrue, or for other good cause as shown. The board shall provide reasonable notice of its intention to withdraw approval of a health benefit plan to any carrier, employee organization, or organization of physicians that may be directly interested, to the persons enrolled in the health benefit plan, and to other persons and organizations as the board may deem proper. The notice shall state the effective date of, and reason for, the withdrawal of board approval. The approval of a health benefit plan may not be withdrawn until after the notice and after all interested parties have been afforded reasonable opportunity for public hearing on the question. The hearings shall be conducted, insofar as practicable, pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3.

22857. (a) Notwithstanding any other provision of law, the board may contract with carriers licensed and doing business in other states to provide health benefits for employees and



annuitants who reside outside of this state. The contracts shall be on terms as the board deems necessary or desirable. The health benefit plans are not necessarily required to meet the minimum requirements of the board, as specified in board regulations, but shall provide appropriate safeguards for members.

(b) An out-of-state employee may enter into a group health benefit plan provided by an out-of-state health maintenance organization, group insurance policy, group service agreement, membership or subscription contract, or other similar group arrangement provided by a carrier for the purpose of providing, arranging, paying for, or reimbursing the cost of health benefits and that is in operation in the community or area where the employee's duties are usually performed. These contracts, plans, agreements, arrangements, or policies shall meet with the approval of, or meet standards approved by, the board.

22859. (a) A health benefit plan or contract may not provide any of the following:

(1) An exception for other coverage where the other coverage is entitlement to Medi-Cal or medicaid benefits.

(2) An exception for Medi-Cal or medicaid benefits.

(3) A benefits reduction if the person has entitlement to Medi-Cal or medicaid benefits.

(4) An exception for enrollment because of an applicant's entitlement to Medi-Cal or medicaid benefits.

(b) Each health benefit plan shall be considered in determining the third-party liability for medical expenses incurred by a Medi-Cal or a medicaid recipient.

22860. It is the policy of the Legislature that benefits provided by a health benefit plan be integrated with the benefits provided by federal or state plans for health care services for the aged in which there is federal or state financial participation. The board shall adopt rules and regulations necessary to implement this section. Notwithstanding any other provision of this part, those rules and regulations may establish exclusions and limitations with respect to benefits, different rates within health benefit plans for employees or annuitants eligible to benefits under other plans, or enrollment of those employees or annuitants in separate plans.

22863. (a) The board shall make available to employees and annuitants eligible to enroll in a health benefit plan information that will enable the employees or annuitants to exercise an



informed choice among the available health benefit plans. Each employee or annuitant enrolled in a health benefit plan shall be issued an appropriate document setting forth or summarizing the services or benefits to which the employee, annuitant, or family members are entitled to thereunder, the procedure for obtaining benefits, and the principal provisions of the health benefit plan.

(b) The board shall compile and provide data regarding age, sex, family composition, and geographical distribution of employees and annuitants and make continuing study of the operation of this part, including, but not limited to, surveys and reports on health benefit plans, medical and hospital benefits, the standard of care available to employees and annuitants, and the experience of health benefit plans receiving contributions under this part with respect to matters such as gross and net cost, administrative cost, and utilization of benefits.

(c) The board shall, with the advice of and in consultation with persons or organizations having special skills or experience in the provision of health care services, study methods of evaluating and improving the quality and cost of health care services provided under this part.

22864. (a) Premiums charged for enrollment in a health benefit plan shall reasonably reflect the cost of the benefits provided.

(b) This part does not limit the board's authority to do any of the following:

(1) Enter into contracts with carriers providing compensation based on carrier performance.

(2) Credit premiums to an employer for expenditures that the board determines are likely to improve the health status of employees and annuitants or otherwise reduce health care costs.

(3) Adjust the premiums charged under any health benefit plan or contract to reflect regional variations in the cost of health care services and other relevant factors. Any adjustment of these premiums shall be at the sole discretion of the board and shall only apply to the premiums charged to employees and annuitants of contracting agencies. The board may require a contracting agency and its employees and annuitants to pay the premium rate established pursuant to this paragraph, which may be different than the health benefit plan or contract premium rate that would otherwise be applicable to that agency.



22865. Prior to the approval of proposed benefits and premium readjustments authorized under Section 22864, the board shall notify the Legislature, the Trustees of the California State University, and the Department of Personnel Administration of the proposed changes in writing.

22866. The board shall report to the Legislature annually, on November 1, regarding the success or failure of each health benefit plan. The report shall include, but not be limited to, the costs to the board and to participants, the degree of satisfaction of members and annuitants with the health benefit plans and with the quality of the care provided, as determined by a representative sampling of participants, and the level of accessibility to preferred providers for rural members who do not have access to health maintenance organizations.

22867. The provisions of this article do not supersede, modify, or in any manner alter or impair the effect of any provision of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or any provision of the Insurance Code. This article shall be interpreted and applied in a manner consistent with those provisions of the Business and Professions Code and the Insurance Code.

22869. Information disseminated by the board pursuant to Section 22863, and compliance with regulations of the board adopted pursuant to subdivision (a) of Section 22846 and Sections 22800 and 22831, shall be deemed to satisfy the requirements of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

Article 7. State Contributions

22870. (a) The state and each employee or annuitant shall contribute a portion of the cost of providing the benefit coverage afforded under the approved health benefit plan in which the employee or annuitant is enrolled.

(b) An annuitant is entitled to only one employer contribution. If more than one annuitant is receiving an allowance as the survivor of the same employee or annuitant, there shall be only one employer contribution with respect to all of those annuitants.

(c) The contribution of each employee and annuitant shall be the total cost per month of the benefit coverage afforded him or her



under the health benefit plan or plans in which he or she is enrolled less the portion thereof to be contributed by the employer. The employer contribution for each employee or annuitant shall commence on the effective date of enrollment.

22871. (a) The employer contribution, with respect to each employee or annuitant who is in the employment of or retired from service with the state, including an academic position with the California State University, or is a survivor of that person, shall be adjusted by the Legislature in the annual Budget Act. Those adjustments shall be based on the principle that the employer contribution for each employee or annuitant shall be an amount equal to 100 percent of the weighted average of the health benefit plan premiums for an employee or annuitant enrolled for self-alone, during the benefit year to which the formula is applied, for the four health benefit plans that had the largest state enrollment, excluding family members, during the previous benefit year. For each employee or annuitant with enrolled family members, the employer shall contribute an additional 90 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four health benefit plans that had the largest state enrollment, excluding family members, during the previous benefit year. Only the enrollment of, and premiums paid by, state employees and annuitants enrolled in a basic health benefit plan shall be counted for purposes of calculating the employer contribution under this section.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions require the expenditure of funds, the provisions may not become effective unless approved by the Legislature.

22871.5. (a) Notwithstanding Section 22871, the employer contribution with respect to each excluded employee, as defined by subdivision (b) of Section 3527, who is otherwise eligible shall be determined by the Department of Personnel Administration subject to the appropriation of funds by the Legislature.

(b) Notwithstanding Section 22871, the employer contribution with respect to each state employee, as defined by subdivision (c)



of Section 3513, who is otherwise eligible shall be determined through the collective bargaining process subject to the appropriation of funds by the Legislature.

22871.6. (a) Notwithstanding Section 22871, subdivision (b) of Section 22871.5, or any other provision of this article, the employer contribution with respect to employees in State Bargaining Unit 9 shall be as described in subdivision (b).

(b) Effective January 1, 2004, the employer contribution for each employee shall be an amount equal to 80 percent of the weighted average of the basic health benefit plan premiums for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(c) The employer contribution provided under this section is not applicable unless and until the effective date of the employee's enrollment in an approved health benefit plan.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions require the expenditure of funds, the provisions may not become effective unless approved by the Legislature.

22871.7. (a) Notwithstanding Section 22871, subdivision (b) of Section 22871.5, or any other provision of this article, the employer contribution with respect to employees in State Bargaining Units 5 and 8 shall be as described in subdivision (b).

(b) (1) From January 1, 2004, to December 31, 2005, inclusive, the employer contribution for each employee shall be an amount equal to 80 percent of the weighted average of the basic health benefit plan premiums for an active state civil service employee enrolled for self alone, during the benefit year to which

the formula is applied, for the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(2) Beginning January 1, 2006, the employer contribution for each employee shall be an amount equal to 85 percent of the weighted average of the basic health benefit plan premiums for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(c) The employer contribution provided under this section is not applicable unless and until the effective date of the employee's enrollment in an approved health benefit plan.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions require the expenditure of funds, the provisions may not become effective unless approved by the Legislature.

22871.8. (a) Notwithstanding Section 22871, subdivision (b) of Section 22871.5, or any other provision of this article, the employer contribution with respect to employees in State Bargaining Units 16 and 19 shall be as described in subdivision (b).



(b) (1) From January 1, 2004, to December 31, 2005, inclusive, the employer contribution for each employee shall be an amount equal to 80 percent of the weighted average of the basic health benefit plan premiums for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(2) Beginning January 1, 2006, the employer contribution for each employee shall be an amount equal to 85 percent of the weighted average of the basic health benefit plan premium for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(c) The employer contribution provided under this section is not applicable unless and until the effective date of the employee's enrollment in an approved health benefit plan.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions require the expenditure of funds, the provisions may not become effective unless approved by the Legislature.



22871.9. (a) Notwithstanding Section 22871, subdivision (b) of Section 22871.5, or any other provision of this article, the employer contribution with respect to employees in State Bargaining Units 1, 4, 10, 11, 14, 15, 17, 20, and 21 shall be as described in subdivision (b).

(b) Effective January 1, 2004, the employer contribution for each employee shall be an amount equal to 80 percent of the weighted average of the basic health benefit plan premiums for an active state civil service employee enrolled for self alone, during the benefit year to which the formula is applied, for the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefit plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(c) The employer contribution provided under this section is not applicable unless and until the effective date of the employee's enrollment in an approved health benefit plan.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions require the expenditure of funds, the provisions may not become effective unless approved by the Legislature.

22872. If an out-of-state employee is enrolled in a health benefit plan, policy, contract, service agreement, or arrangement described in Section 22857 and elects to receive the benefits provided by this part, the state and the employee shall contribute and disburse a portion of the cost of providing the benefit coverage in the same amounts and in a like manner as is provided for contributions, withholdings, appropriations, and payments for health benefit plans under Sections 22871, 22880, 22881, 22883, 22885, and 22913. Disbursements may be made to any person, association, corporation, insurer, or other entity responsible for providing the benefit coverage, except that the state shall make no



contribution to the Public Employees' Contingency Reserve Fund, for other than administrative expense, with respect to an out-of-state employee and the fund may not be made available to any extent or for any purpose other than payment of administrative costs with respect to the employee or the plan, policy, contract, service agreement, or arrangement in which he or she is enrolled under this part.

22873. (a) Notwithstanding Section 22871, a state employee first hired on or after January 1, 1985, may not be vested for the full employer contribution payable for annuitants unless he or she has 10 years of credited state service at the time of retirement. The employer contribution payable for annuitants with less than 10 years of service shall be prorated based on credited state service at the time of retirement. This section shall apply only to state employees who retire for service. For purposes of this section, "state service" means service rendered as an employee or an appointed or elected officer of the state, including all municipal, superior, and justice court services rendered by a justice of the Supreme Court or court of appeal, or by a judge of the superior court.

(b) This section does not apply to employees of the California State University or of the Legislature.

22874. (a) Notwithstanding Sections 22870, 22871, and 22873, a state employee, defined by subdivision (c) of Section 3513, who becomes a state member of the system after January 1, 1989, may not receive any portion of the employer contribution payable for annuitants unless the person is credited with 10 years of state service at the time of retirement. This section shall apply only to state employees that retire for service. For purposes of this section, "state service" means service rendered as an employee of the state or an appointed or elected officer of the state for compensation.

(b) This section does not apply to employees of the California State University or the Legislature.

22875. (a) Notwithstanding Sections 22870, 22871, 22873, and 22874, a state employee who becomes a state member of the system after January 1, 1990, and is either excluded from the definition of a state employee in subdivision (c) of Section 3513, or a nonelected officer or employee of the executive branch of government who is not a member of the civil service, may not



receive any portion of the employer contribution payable for annuitants, unless the employee is credited with 10 years of state service, as defined by this section, at the time of retirement.

(b) The percentage of the employer contribution payable for postretirement health benefits for an employee subject to this section shall be based on the completed years of credited state service at retirement as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

(c) This section shall apply only to state employees who retire for service.

(d) Benefits provided to an employee subject to this section shall be applicable to all future state service.

(e) For the purposes of this section, “state service” means service rendered as an employee or an appointed or elected officer of the state for compensation.

(f) This section does not apply to employees of the California State University or the Legislature.

22875.5. (a) If the state has assumed from a public agency a function and the related personnel, service rendered by that personnel for compensation as employees or appointed or elective officers of that public agency may not be credited as state service for the purposes of Section 22874 or 22875, unless both of the following apply:

(1) The former employer has paid or agreed to pay the state the amount actuarially determined to equal the cost for any employee

health benefits that were vested at the time that the function and the related personnel were assumed by the state.

(2) The Department of Finance finds that the contract contains a benefit factor sufficient to reimburse the state for the amount necessary to fully compensate for the postretirement health benefit costs of those personnel.

(b) For noncontracting public agencies, the state agency that has assumed the function shall certify the completed years of public agency service to be credited to the employee as state service credit under Section 22874 or 22875.

22876. (a) For the purpose of meeting the vesting requirements of Section 22873, employees of the County of Merced who became employees of the state as a result of the state's assuming firefighting functions for that county shall be credited with state service for each completed year of service with the county that would have been credited by the county for the vesting of postretirement health benefits. The definition of "state service" does not apply to employees of the County of Merced who became employees of the state as a result of the state assuming firefighting functions for the county on or before August 1, 1988.

(b) Notwithstanding subdivisions (e) and (f) of Section 22875, for the purposes of meeting the vesting requirements of Section 22873, 22874, or 22875, employees of the Cities of Rubidoux and Coachella who become employees of the state, on or before December 31, 1990, as a result of the state's assuming firefighting functions for the city, shall be credited with state service for each completed year of service with the city. The city shall identify those employees and provide the corresponding service credit information to the board.

(c) No employee whose firefighting function was transferred to the state after December 31, 1990, shall receive credit toward postretirement health benefits vesting unless the former employer agrees to reimburse the state for the costs of that credit in accordance with Section 22875.5.

22877. (a) As used in this section, the following definitions shall apply:

(1) "Coinsurance" means the provision of a health benefit plan design that requires the health benefit plan and state employee or annuitant to share the cost of hospital or medical expenses at a specified ratio.



(2) “Deductible” means the annual amount of out-of-pocket medical expenses that a state employee or annuitant must pay before the health benefit plan begins paying for expenses.

(3) “Program” means the Rural Health Care Equity Program.

(4) “Rural area” means an area in which there is no board-approved health maintenance organization plan available for enrollment by state employees or annuitants residing in the area.

(b) (1) The Rural Health Care Equity Program is hereby established for the purpose of funding the subsidization and reimbursement of premium costs, deductibles, coinsurance, and other out-of-pocket health care expenses paid by employees and annuitants living in rural areas that would otherwise be covered if the state employee or annuitant was enrolled in a board-approved health maintenance organization plan. The program shall be administered by the Department of Personnel Administration or by a third-party administrator approved by the Department of Personnel Administration in a manner consistent with all applicable state and federal laws. The board shall determine the rural area for each subsequent fiscal year, at the same time that premiums for health maintenance organization plans are approved.

(2) Separate accounts shall be maintained within the program for all of the following:

(A) Employees, as defined in subdivision (c) of Section 3513.

(B) Excluded employees, as defined in subdivision (b) of Section 3527.

(C) State annuitants.

(c) Moneys in the program shall be allocated to the respective accounts as follows:

(1) The contribution provided by the state with respect to each employee, as defined in subdivision (c) of Section 3513, who lives in a rural area and is otherwise eligible, shall be an amount determined through the collective bargaining process.

(2) The contribution provided by the state with respect to each excluded employee, as defined in subdivision (b) of Section 3527, who lives in a rural area and is otherwise eligible, shall be an amount equal to, but not to exceed, the amount contributed pursuant to paragraph (1).



(3) The contribution provided by the state with respect to each state annuitant who lives in a rural area, is not a Medicare participant, resides in California, and is otherwise eligible, shall be an amount not to exceed five hundred dollars (\$500) per year.

(4) The contribution provided by the state with respect to each state annuitant who lives in a rural area, resides in California, participates in a supplement Medicare health benefit plan, and is otherwise eligible, shall be an amount equal to the Medicare Part B premiums incurred by the annuitant, not to exceed seventy-five dollars (\$75) per month. The program may not reimburse for penalty amounts.

(5) If an employee enters or leaves service with the state during a fiscal year, contributions for the employee shall be made on a pro rata basis. A similar computation shall be used for anyone entering or leaving the bargaining unit, including a person who enters the bargaining unit by promotion during a fiscal year.

(d) Each fund of the State Treasury, other than the General Fund, shall reimburse the General Fund for any sums allocated pursuant to subdivision (c) for employees whose compensation is paid from that fund. That reimbursement shall be accomplished using the following methodology:

(1) On or before December 1 of each year, the Department of Personnel Administration shall provide a list of active state employees who participated in the program during the previous fiscal year to each employing department.

(2) On or before January 15 of each year, each department that employed an active state employee identified by the Department of Personnel Administration as a participant in the program shall provide the Department of Personnel Administration with a list of the funds used to pay each employee's salary, along with the proportion of each employee's salary attributable to each fund.

(3) Using the information provided by the employing departments, the Department of Personnel Administration shall compile a list of program payments attributable to each fund. On or before February 15 of each year, the Department of Personnel Administration shall transmit this list to the Department of Finance.

(4) The Department of Finance shall certify to the Controller the amount to be transferred from the unencumbered balance of each fund to the General Fund.



(5) The Controller shall transfer to the General Fund from the unencumbered balance of each impacted fund the amount specified by the Department of Finance.

(6) To ensure the equitable allocation of costs, the Director of the Department of Personnel Administration or the Director of Finance may require an audit of departmental reports.

(e) For any sums allocated pursuant to subdivision (c) for annuitants, funds, other than the General Fund, shall be charged a fair share of the contribution provided by the state in accordance with the provisions of Article 2 (commencing with Section 11270) of Chapter 3 of Part 1 of Division 3. On or before July 31 of each year, the Department of Personnel Administration shall provide the Department of Finance with the total costs allocated for annuitants in the previous fiscal year. The reported costs may not include expenses that have been incurred but not claimed as of July 31.

(f) Notwithstanding any other provision of law and subject to the availability of funds, moneys within the program shall be disbursed for the benefit of eligible employees. The disbursements shall subsidize the preferred provider plan premiums for the employee by an amount equal to the difference between the weighted average of board-approved health maintenance organization premiums and the lowest board-approved preferred provider plan premium available under this part, and reimburse the employee for a portion or all of his or her incurred deductible, coinsurance, and other out-of-pocket health-related expenses that would otherwise be covered if the employee and his or her family members were enrolled in a board-approved health maintenance organization plan. These subsidies and reimbursements shall be provided as determined by the Department of Personnel Administration, which may include, but is not limited to, a supplemental insurance plan, a medical reimbursement account, or a medical spending account plan.

(g) Notwithstanding any other provision of law and subject to the availability of funds, moneys within the program shall be disbursed for the benefit of eligible annuitants. The disbursements shall either reimburse the annuitant, if not a Medicare participant, for some or all of the deductible incurred by the annuitant or a family member, not to exceed five hundred dollars (\$500) per fiscal year, or reimburse the annuitant, if a Medicare participant,



for Medicare Part B premiums incurred by the annuitant, not to exceed seventy-five dollars (\$75) per month. The program may not reimburse for penalty amounts. These reimbursements shall be provided by the Department of Personnel Administration. Notwithstanding any other provision of law, any annuitant who cannot be located within a period of three months and whose disbursement is returned to the Controller as unclaimed is ineligible to participate in the program.

(h) Moneys remaining in an account of the program at the end of any fiscal year shall remain in the account for use in subsequent fiscal years, until the account is terminated. Moneys remaining in a program account upon termination, after payment of all expenses and claims incurred prior to the date of termination, shall be deposited in the General Fund.

(i) The Legislature finds and declares that the program is established for the exclusive benefit of employees, annuitants, and family members.

(j) This section shall cease to be operative on January 1, 2005, or on an earlier date if the board makes a formal determination that health maintenance organization plans are no longer the most cost-effective health benefit plans offered by the board.

22878. A health benefit plan offered by the California Association of Highway Patrolmen may rebate funds to participants enrolled in the basic and Medicare health benefit plans sponsored by the association, in order to ensure that participant out-of-pocket costs remain at a reasonable and competitive level as determined by the Board of Trustees of the California Association of Highway Patrolmen Health Benefits Trust. The payments shall be made from the special reserves of the health benefits trust fund. The amount of funds shall be limited to the portion of special reserves for that health benefit plan that is in excess of the amount necessary to fund the risk up to the reinsurance attachment level. Administrative costs incurred by the state for the implementation of this section shall be reimbursed by the health benefits trust from the same funds.

22879. (a) The board shall pay monthly to an employee or annuitant who is enrolled in, or whose family member is enrolled in, a Medicare health benefit plan under this part the amount of the Medicare Part B premiums, exclusive of penalties, except as provided in Section 22831. This payment may not exceed the



difference between the maximum employer contribution and the amount contributed by the employer toward the cost of premiums for the health benefit plan in which the employee or annuitant and his or her family members are enrolled. No payment may be made in any month if the difference is less than one dollar (\$1).

(b) This section shall be applicable only to state employees, annuitants who retired while state employees, and the family members of those persons.

(c) With respect to an annuitant, the board shall pay to the annuitant the amount required by this section from the same source from which his or her allowance is paid. Those amounts are hereby appropriated monthly from the General Fund to reimburse the board for those payments.

(d) There is hereby appropriated from the appropriate funds the amounts required by this section to be paid to active state employees.

22880. The contributions of each employee and annuitant shall be withheld from the monthly salary or retirement allowance payable to him or her.

The employer contribution required of the state, as provided by Sections 22881 and 22883, for any month shall be charged to the same fund used for payment of salaries and wages from which the employee contribution is deducted.

The employer contribution required of the state on account of each annuitant shall be payable from the funds appropriated for that purpose.

22881. From the General Fund in the State Treasury, there is hereby appropriated monthly the employer contribution required of the state under Sections 22820, 22834, 22870, 22871, and 22885 for:

(a) All employees whose compensation is paid from the General Fund.

(b) All employees whose compensation is paid from funds of, or funds appropriated to, the California State University.

(c) All employees who are employed by the Department of Education or the Department of Rehabilitation and whose compensation is paid from the Vocational Education Federal Fund, the Vocational Rehabilitation Federal Fund, or any other fund received, in whole or in part, as a donation to the state under restrictions preventing its use for such contributions.



(d) All employees whose compensation is paid from the Senate Contingent Fund, Assembly Contingent Fund, or the Contingent Fund of the Assembly and Senate.

(e) All annuitants.

22883. (a) Each fund in the State Treasury, other than the General Fund, shall be charged a fair share of the employer contribution for annuitants in accordance with the provisions of Article 2 (commencing with Section 11270) of Chapter 3 of Part 1 of Division 3.

(b) From each fund in the State Treasury, other than the General Fund, there is hereby appropriated monthly the employer contribution required under Sections 22870, 22871, and 22885 for all employees whose compensation is paid from that fund.

22885. (a) The state shall, in addition to the contributions required by Section 22870, contribute additional amounts necessary to provide funds for the administration of this part and for the establishment and continuation of the Public Employees' Contingency Reserve Fund.

(b) The additional contributions shall be in amounts reasonably adequate to pay the administrative expenses and to establish and maintain the account within the Public Employees' Contingency Reserve Fund provided by subdivision (b) of Section 22910, as determined by the board and as adopted by the Legislature in an appropriate control section of the annual Budget Act, but may not exceed, for each employee or annuitant, the following amounts:

(1) For administrative expenses, 2 percent of the total of the contributions made by the employee or annuitant and by the state on behalf of the employee or annuitant for enrollment in a health benefit plan.

(2) For the account within the Public Employees' Contingency Reserve Fund provided by subdivision (b) of Section 22910, 4 percent of the total of the contributions made by the employee or annuitant and by the state on behalf of the employee or annuitant for enrollment in a health benefit plan.

22887. An employer may require an employee or annuitant or his or her domestic partner to be financially responsible for any increased cost of covering the domestic partner that exceeds the employer contribution rate that otherwise would have been paid.

22887.5. Notwithstanding any other provision of law, this part may not be construed to extend any vested rights to a domestic



partner of an employee or annuitant, or be construed to limit the right of the Legislature to subsequently modify or repeal any provision of this part.

22889. Any person or entity subject to the requirements of this chapter shall comply with the standards set forth in Chapter 7 (commencing with Section 3750) of Part 1 of Division 9 of the Family Code and Section 14124.94 of the Welfare and Institutions Code.

Article 8. Contracting Agency Contributions

22890. (a) The contracting agency and each employee or annuitant shall contribute a portion of the cost of providing the benefit coverage afforded under the health benefit plan approved or maintained by the board in which the employee or annuitant may be enrolled.

(b) An annuitant is entitled to only one employer contribution. If more than one annuitant is receiving an allowance as the survivor of the same employee or annuitant, there shall be only one employer contribution with respect to all such annuitants.

(c) The contribution of each employee and annuitant shall be the total cost per month of the benefit coverage afforded him or her under the health benefit plan or plans in which he or she is enrolled less the portion thereof to be contributed by the employer. The employer contribution for each employee and annuitant shall commence on the effective date of enrollment.

22892. (a) The employer contribution of a contracting agency shall begin on the effective date of enrollment and shall be the amount fixed from time to time by resolution of the governing body of the agency. The resolution shall be filed with the board and the contribution amount shall be effective on the first day of the second month following the month in which the resolution is received by the system.

(b) (1) The employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the following:

(A) Prior to January 1, 2004, sixteen dollars (\$16) per month.

(B) During calendar year 2004, thirty-two dollars and twenty cents (\$32.20) per month.

(C) During calendar year 2005, forty-eight dollars and forty cents (\$48.40) per month.

(D) During calendar year 2006, sixty-four dollars and sixty cents (\$64.60) per month.

(E) During calendar year 2007, eighty dollars and eighty cents (\$80.80) per month.

(F) During calendar year 2008, ninety-seven dollars (\$97) per month.

(2) Commencing January 1, 2009, the employer contribution shall be adjusted annually by the board to reflect any change in the medical care component of the Consumer Price Index and shall be rounded to the nearest dollar. A school employer shall contribute the amount it contributed to a health benefit plan for its employees at the time of its election to participate or the amount otherwise specified in this subdivision, whichever is greater.

(c) A contracting agency may, notwithstanding the equal contribution requirement of subdivision (b), establish a lesser monthly employer contribution for annuitants than for employees, provided that the monthly contribution for annuitants is annually increased by an amount not less than 5 percent of the monthly employer contribution for employees, until the time that the employer contribution for annuitants equals the employer contribution paid for employees. This subdivision shall only apply to agencies that first become subject to this part on or after January 1, 1986.

22893. (a) Notwithstanding Section 22892, the percentage of employer contribution payable for postretirement health benefits for an employee of a contracting agency subject to this section shall, except as provided in subdivision (b), be based on the member's completed years of credited state service at retirement as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75

16	80
17	85
18	90
19	95
20 or more	100

This subdivision shall apply only to employees who retire for service and are first employed after this section becomes applicable to their employer, except as otherwise provided in paragraph (6). The application of this subdivision shall be subject to the following provisions:

(1) The employer contribution with respect to each annuitant shall be adjusted by the employer each year. Those adjustments shall be based upon the principle that the employer contribution for each annuitant may not be less than the amount equal to 100 percent of the weighted average of the health benefit plan premiums for an employee or annuitant enrolled for self-alone, during the benefit year to which the formula is applied, for the four health benefit plans that had the largest state enrollment, excluding family members, during the previous benefit year. For each annuitant with enrolled family members, the employer shall contribute an additional 90 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four health benefit plans that had the largest state enrollment, excluding family members, during the previous benefit year. Only the enrollment of, and premiums paid by, state employees and annuitants enrolled in basic health benefit plans shall be counted for purposes of calculating the employer contribution under this section.

(2) The employer shall have, in the case of employees represented by a bargaining unit, reached an agreement with that bargaining unit to be subject to this section.

(3) The employer shall certify to the board, in the case of employees not represented by a bargaining unit, that there is not an applicable memorandum of understanding.

(4) The credited service of an employee for the purpose of determining the percentage of employer contributions applicable under this section shall mean state service as defined in Section



20069, except that at least five years of service shall have been performed entirely with that employer.

(5) The employer shall provide the board any information requested that the board determines is necessary to implement this section.

(6) The employer may, once each year without discrimination, allow all employees who were first employed before this section became applicable to the employer to individually elect to be subject to the provisions of this section, and the employer shall notify the board which employees have made that election.

(b) Notwithstanding subdivision (a), the contribution payable by an employer subject to this section shall be equal to 100 percent of the amount established pursuant to paragraph (1) of subdivision (a) on behalf of any annuitant who either:

(1) Retired for disability.

(2) Retired for service with 20 or more years of service credit entirely with that employer, regardless of the number of days after separation from employment. The contribution payable by an employer under this paragraph shall be paid only if it is greater than, and made in lieu of, a contribution payable to the annuitant by another employer under this part. The board shall establish application procedures and eligibility criteria to implement this paragraph.

(c) This section does not apply to any contracting agency, its employees, or annuitants unless and until the agency files with the board a resolution of its governing body electing to be so subject. The resolution shall be adopted by a majority vote of the governing body and shall be effective at the time provided in board regulations.

22895. (a) Notwithstanding any other provision of this part, a school employer, the employees' exclusive representative, and unrepresented employees may agree that the employer contribution for postretirement health coverage shall be subject to the following:

(1) Credited years of service that the employee worked with the contracting agency.

(2) A memorandum of understanding regarding postretirement health coverage mutually agreed upon through collective bargaining. This issue may not be subject to the impasse



procedures set forth in Article 9 (commencing with Section 3548) of Chapter 10.7 of Division 4 of Title 1.

(b) No agreement reached pursuant to subdivision (a) shall be valid if it imposes separate postretirement health coverage vesting requirements on employees in the same category and doing similar job duties.

(c) This section is not applicable to any employee who retired before the effective date of the memorandum of understanding. In the event that the memorandum of understanding establishes a retroactive effective date, this section applies only prospectively and any employee who retires before the memorandum of understanding is signed may not be affected by it.

(d) No agreement reached pursuant to subdivision (a) shall be valid if it provides an employer contribution for employees with less than five years of credited service with the school employer.

(e) The contracting agency shall provide, in the manner prescribed by the board, a notification of the agreement established pursuant to this section and any additional information necessary to implement this section.

22897. (a) Notwithstanding any other provision of this part, a contracting agency and the employees' exclusive representative may agree that the employer contribution for postretirement health benefit coverage for an employee subject to this section shall be based on the employee's completed years of service credited with the contracting agency at retirement, with the contracting agency paying no employer contribution for the first 15 years of that credited service and paying 100 percent of the employer contribution for employees with credited service of 15 years or more.

This section applies only to the North Orange County Community College District and the Riverside County Superintendent of Schools, only with regard to the employees of those agencies who are first hired on or after July 1, 1993.

(b) An agreement entered into pursuant to subdivision (a) shall provide that the employer contribution for a part-time employee, with 20 years or more of credited service with the contracting agency, shall be 100 percent of the employer contribution.

22899. (a) The contributions required of a contracting agency, along with contributions withheld from salaries of its employees, shall be forwarded monthly, no later than the 10th day



of the month for which the contribution is due. The contributions shall be credited to the Public Employees' Contingency Reserve Fund as specified by Section 22910.

(b) A county superintendent of schools shall draw requisitions against the county school service fund and the funds of the respective school districts for the amount equal to the total of the employer contributions and the employee contributions deducted from compensation paid from those funds. The amounts shall be deposited in the county treasury to the credit of the contract retirement fund established pursuant to Section 20617. The county superintendent thereafter shall draw his or her requisitions against the fund in favor of the board which, when allowed by the county auditor, shall constitute warrants against the fund and shall forward the warrants to the board in accordance with this section.

(c) If a contracting agency fails to remit the contributions when due, the agency may be assessed interest at an annual rate of 10 percent and the costs of collection, including reasonable legal fees, when necessary to collect the amounts due. In the case of repeated delinquencies, the contracting agency may be assessed a penalty of 10 percent of the delinquent amount. That penalty may be assessed once during each 30-day period that the amount remains unpaid. Additionally, the contracting agency may be required to deposit one-month's premium as a condition of continued participation in the program.

22901. Each contracting agency shall contribute to the Public Employees' Contingency Reserve Fund, an amount sufficient to bear all of the administrative costs incurred by the board in providing to the employees and annuitants of that agency the health benefits provided by this part. The amount of the contributions required by this section shall be determined by the board and may include an appropriate share of overhead costs of the program. A contracting agency shall, in addition, contribute to the fund for each of its employees and annuitants the same amount as is required of the state under paragraph (2) of subdivision (b) of Section 22885.

22903. An employer may require an employee or annuitant or his or her domestic partner to be financially responsible for any increased cost of covering the domestic partner that exceeds the employer contribution rate that otherwise would have been paid.



22903.5. Notwithstanding any other provision of law, this part may not be construed to extend any vested rights to a domestic partner of an employee or annuitant, or be construed to limit the right of the Legislature to subsequently modify or repeal any provision of this part.

22905. Any person or entity subject to the requirements of this chapter shall comply with the standards set forth in Chapter 7 (commencing with Section 3750) of Part 1 of Division 9 of the Family Code and Section 14124.94 of the Welfare and Institutions Code.

Article 9. Maintenance of Funds

22910. (a) There shall be maintained in the State Treasury the Public Employees' Contingency Reserve Fund. The board may invest funds in the Public Employees' Contingency Reserve Fund in accordance with the provisions of law governing its investment of the retirement fund.

(b) (1) An account shall be maintained within the Public Employees' Contingency Reserve Fund with respect to the health benefit plans the board has approved or that have entered into a contract with the board. The account shall be credited, from time to time and in amounts as determined by the board, with moneys contributed under Section 22885 or 22901 to provide an adequate contingency reserve. The income derived from any dividends, rate adjustments, or other funds received from a health benefit plan shall be credited to the account. The board may deposit, in the same manner as provided in paragraph (3), up to one-half of one percent of premiums in the account for purposes of cost containment programs, subject to approval as provided in paragraph (2) of subdivision (c).

The account may be utilized to defray increases in future rates, to reduce the contributions of employees and annuitants and employers, to implement cost containment programs, or to increase the benefits provided by a health benefit plan, as determined by the board. The board may use penalties and interest deposited pursuant to subdivision (c) of Section 22899 to pay any difference between the adjusted rate set by the board pursuant to Section 22864 and the applicable health benefit plan contract rates.



(2) The total credited to the account for health benefit plans at any time shall be limited, in the manner and to the extent the board may find to be most practical, to a maximum of 10 percent of the total of the contributions of the employers and employees and annuitants in any fiscal year. The board may undertake any action to ensure that the maximum amount prescribed for the fund is approximately maintained.

(3) Board rules and regulations adopted pursuant to Section 22831 to minimize the impact of adverse selection or contracts entered into pursuant to Section 22864 to implement health benefit plan performance incentives may provide for deposit in and disbursement to carriers or to Medicare from the account the portion of the contributions otherwise payable directly to the carriers by the Controller under Section 22913 as may be required for that purpose. The deposits may not be included in applying the limitations, prescribed in paragraph (2), on total amounts that may be deposited in or credited to the fund.

(4) Notwithstanding Section 13340, all moneys in the account for health benefit plans are continuously appropriated without regard to fiscal year for the purposes provided in this subdivision.

(c) (1) An account shall also be maintained in the Public Employees' Contingency Reserve Fund for administrative expenses consisting of funds deposited for this purpose pursuant to Sections 22885 and 22901.

(2) The moneys deposited pursuant to Sections 22885 and 22901 in the Public Employees' Contingency Reserve Fund may be expended by the board for administrative purposes, provided that the expenditure is approved by the Department of Finance and the Joint Legislative Budget Committee in the manner provided in the Budget Act for obtaining authorization to expend at rates requiring a deficiency appropriation, regardless of whether the expenses were anticipated.

(d) An account shall be maintained in the Public Employees' Contingency Reserve Fund for health plan premiums paid by contracting agencies, including payments made pursuant to subdivision (f) of Section 22850. Notwithstanding Section 13340, the funds are continuously appropriated, without regard to fiscal year, for the payment of premiums or other charges to carriers or the Public Employees' Health Care Fund. Penalties and interest paid pursuant to subdivision (c) of Section 22899 shall be



deposited in the account pursuant to paragraph (1) of subdivision (b).

(e) Accounts shall be maintained in the Public Employees' Contingency Reserve Fund for complementary annuitant premiums and related administrative expenses paid by annuitants pursuant to Section 22802. Notwithstanding Section 13340, the funds are continuously appropriated, without regard to fiscal year, to reimburse the Public Employees' Retirement Fund for payment of annuitant health premiums, and for the payment of premiums and other charges to carriers or to the Public Employees' Health Care Fund. Administrative expenses deposited in this account shall be credited to the account provided by subdivision (c).

22911. (a) There shall be maintained in the State Treasury the Public Employees' Health Care Fund to fund the health benefit plans administered or approved by the board. The board may invest funds in the Public Employees' Health Care Fund in accordance with the provisions of law governing its investment of the retirement fund.

(b) The Public Employees' Health Care Fund shall consist of the following:

(1) Any self-funded or minimum premium plan premiums paid by contracting agencies, the state and enrolled employees, annuitants, and family members, including premiums paid directly for continuation coverage authorized under the Consolidated Omnibus Budget Reconciliation Act, and as authorized by this part.

(2) Any reserve moneys from terminated health benefit plans designated by the board.

(c) Income earned on the Public Employees' Health Care Fund shall be credited to the fund.

(d) Notwithstanding Section 13340, the Public Employees' Health Care Fund is continuously appropriated, without regard to fiscal years, to pay benefits and claims costs, the costs of administering self-funded or minimum premium health benefit plans, refunds to those who made direct premium payments, and other costs as the board may determine necessary, consistent with its fiduciary duty.

(e) The Legislature finds and declares that the Public Employees' Health Care Fund is a trust fund held for the exclusive benefit of enrolled employees, annuitants, family members, the

self-funded plan administrator, and those contracting to provide medical and hospital care services.

22913. (a) Contributions of employees, annuitants, and employers not credited to the Public Employees' Contingency Reserve Fund for purposes specified in Section 22885 or 22901 shall be utilized to pay the premiums or other charges to carriers or to the Public Employees' Health Care Fund.

(b) The Controller shall suitably identify and remit the state's contribution for each employee or annuitant monthly to the Public Employees' Health Care Fund or to the carriers, together with amounts authorized by the employees and annuitants to be deducted from their salaries or retirement allowances for payment of the employee contribution.

(c) The contributions of employees and annuitants of contracting agencies and the contributions of contracting agency employers shall be suitably identified and remitted monthly to the carriers by warrant of the Controller upon claims filed by the board.

22915. There is in the State Treasury the State Annuitants' Vision Care Benefits Fund that is, upon appropriation by the Legislature, available to the board for expenditure solely for the provision of vision care benefits to state annuitants pursuant to this part.

Article 10. Contracting with Public Agencies

22920. The following entities are eligible to become subject to this part:

(a) A contracting agency, as defined in Section 20022, a county or special district subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), and a school employer.

(b) A public body or agency of or within the state that is not subject to Part 3 (commencing with Section 20000) of the Government Code or the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), and that provides a retirement system for its employees funded wholly or in part by public funds.

(c) The protection and advocacy agency described in subdivision (h) of Section 4900 of the Welfare and Institutions



Code, if the agency obtains a written advisory opinion from the United States Department of Labor stating that the organization is an agency or instrumentality of the state or a political subdivision thereof within the meaning of Chapter 18 (commencing with Section 1001) of Title 29 of the United States Code.

22922. (a) A contracting agency and its employees and annuitants shall be subject to this part upon filing with the board a resolution of its governing body electing to be so subject. The resolution shall be adopted by a majority vote and shall be effective at the time provided in board regulations.

(b) A contracting agency may become subject to this part with respect to a recognized employee organization. The resolution filed with respect to a contracting agency pursuant to subdivision (a) shall specify the recognized employee organizations to which the resolution applies.

(c) Pursuant to Section 22796 and subdivision (g) of Section 22934, the board may by regulation require any contracting agency that elects to become subject to this part to meet certain board-determined criteria, including, but not limited to, additional requirements for any contracting agency that elects to become subject to this part that previously terminated coverage pursuant to Section 22938.

22927. Notwithstanding any other provision of this part, a contracting agency that is a city and county shall be subject to this part only with respect to employees who upon entering city and county employment from state employment had an option under state statutes to continue enrollment under this part.

22928. When a hospital becomes a contracting agency pursuant to subdivision (p) of Section 20057, its employees shall be deemed city employees for purposes of this part until the hospital enacts its own resolution or acts officially to terminate its participation under this part.

22929. (a) A contracting agency may, at its option, offer health benefits pursuant to this part, to the domestic partners of its employees and annuitants.

(b) The contracting agency shall notify the board, in the manner prescribed, that it is electing to provide health coverage through this part to the domestic partners of its employees and annuitants.



(c) The contracting agency shall provide any information deemed necessary by the board to determine eligibility under this part.

22930. If the board administers a specialized health benefit plan, it may offer coverage in the specialized health benefit plan to a contracting agency that also provides coverage for its employees in a health benefit plan under this part.

22931. Annuitants that receive benefits under this part and are former certificated employees that retired from a school employer, including the spouses and surviving spouses, are not subject to Article 1 (commencing with Section 7000) of Chapter 1 of Part 5 of Division 1 of the Education Code. The school employer is also not subject to Article 1 (commencing with Section 7000) of Chapter 1 of Part 5 of Division 1 of the Education Code with respect to those annuitants.

22932. A contracting agency shall perform the functions necessary to enroll its employees and submit reports as may be required by the board. A county superintendent of schools shall have the responsibility of providing all information concerning the school districts within his or her jurisdiction to the board.

22934. (a) A contracting agency that has elected to be subject to this part may not maintain any other health benefit plan or program offering hospital and medical care for its employees.

(b) Notwithstanding subdivision (a), a plan operating on July 1, 2002, shall be permitted to continue as long as it meets the requirements of subdivision (e). A material change in the plan, including a change in carriers, shall be permitted. Notwithstanding any other provision of this part, a contracting agency may include a dependent of an employee or retiree who is not eligible for coverage as a family member or a domestic partner, as provided in this part, if the employee or retiree is also enrolled in the alternative plan.

(c) Notwithstanding subdivision (a), a self-insured plan operating on January 1, 2003, shall be permitted to continue as long as it meets the requirements of subdivision (e). The board may extend the deadline contained in this subdivision for good cause.

(d) Notwithstanding subdivision (a), an alternative plan established by a contracting agency and approved by the board after July 1, 2002, shall be permitted to continue until December



31, 2004. The plan may only be offered in an area in which there is no board-approved health maintenance organization or exclusive provider organization plan available for enrollment, or there is only one board-approved health maintenance organization plan available for enrollment, and that plan has less than 55 percent of the primary care physicians in its provider network available for new patients. The contracting agency shall reimburse the board for reasonable administrative expenses incurred as a result of enrollment activities outside of the system's open enrollment period caused by the creation or termination of a plan offered pursuant to this subdivision. A contracting agency providing a plan pursuant to this subdivision shall notify the board by June 1, 2004, of its intent to either terminate that plan or to terminate its participation under this part as of January 1, 2005. On or after June 1, 2004, the board may extend the termination date contained in this subdivision for a contracting agency at its discretion, based on compelling circumstances in the region in which the contracting agency is located.

(e) A plan maintained pursuant to this section shall meet and maintain the minimum standards for approved health benefit plans prescribed by the board pursuant to the requirements of this part.

(f) An election of a contracting agency to be subject to this part is not effective prior to the termination of any health benefit plan maintained in violation of this section. The establishment of any plan thereafter in violation of this section shall terminate participation of the agency and all of its employees under this part as of the end of the contract year.

(g) Nothing in this part may be construed to prohibit a contracting agency from offering health plans, including collectively bargained union health and welfare trust plans, to employees and annuitants of employee groups, including collective bargaining units, if the contracting agency has not elected to provide coverage for that group under this part.

22937. A contracting agency may elect, by amending its contract with the board, to participate in a Medicare reimbursement program for its employees, annuitants, or family members who are enrolled in a Medicare health benefit plan under this part, as prescribed by board regulations.

22938. A contracting agency that has elected to be subject to this part may elect to cease to be so subject by resolution adopted

by a majority vote of its governing body and filed with the board on or before the deadline provided in board regulations, to be effective at the end of the current contract year. Coverage of employees and annuitants of the contracting agency shall also terminate at the end of the current contract year.

22939. The board may terminate the participation of a contracting agency if it fails for three months after a demand to perform any act required by this part or by board rules or regulations.

Article 11. Prefunding Plan for Health Care Coverage for Annuitants

22940. There is in the State Treasury the Annuitants' Health Care Coverage Fund that is a trust fund and a retirement fund, within the meaning of Section 17 of Article XVI of the California Constitution, that is continuously appropriated without regard to fiscal years to the board for expenditure for the prefunding of health care coverage for annuitants pursuant to this part, including administrative costs. The board has sole and exclusive control and power over the administration and investment of the Annuitants' Health Care Coverage Fund and shall make investments pursuant to Part 3 (commencing with Section 20000).

22942. An employer may elect to participate in the prefunding plan established by this article.

22944. The board shall annually determine the rate of contribution for the following fiscal year for each employer providing benefits pursuant to this part, regardless of whether the employer participates pursuant to this article, and shall annually transmit to each employer its contribution rate for the following fiscal year which would fully fund its obligation under this article.

CHAPTER 2. RECOVERY OF MEDICAL COSTS

22945. (a) The purpose of this chapter is to establish the rights of the California Association of Highway Patrolmen Health Benefits Trust, the Peace Officers Research Association of California Health Benefits Trust, and the California Correctional Peace Officer Association Health Benefits Trust to recover



medical costs paid to a participant for injuries, including injuries that result in death, caused by or allegedly caused by a third party.

(b) This chapter does not apply if the participant is injured in the course and scope of his or her employment. In those cases, Chapter 5 (commencing with Section 3850) of Part 1 of Division 4 of the Labor Code governs.

22946. As used in this chapter:

(a) “Health benefits trust” means the California Association of Highway Patrolmen Health Benefits Trust, the Peace Officers Research Association of California Health Benefits Trust, the California Correctional Peace Officers Association Health Benefits Trust, or a self-funded plan administered by the board under this part.

(b) “Participant” means an employee, annuitant, or family member who is a member of a health benefits trust and who is injured by, or due to the actions or inactions of, a third person, and includes any other person to whom a claim accrues by reason of the injury or death of the employee, annuitant, or family member.

(c) “Third party” means any tortfeasor or alleged tortfeasor against whom the participant asserts a claim for injury or death.

22947. (a) A health benefits trust may assert a lien for health benefits paid on behalf of a participant against any settlement with, or arbitration award or judgment against, a third party. No lien asserted by a health benefits trust under this section may exceed the amount actually paid by the trust to any treating medical provider.

(b) The participant, if not represented by an attorney, or the participant’s attorney, shall immediately send, by certified mail, written notice of the existence of any claim or action against a third party, to the following:

(1) The health benefits trust.

(2) A hospital or any hospital-affiliated health facility, as defined in Section 1250 of the Health and Safety Code, that is known to have provided health care services to the participant.

(c) If medical costs are paid by the health benefits trust, contract providers may not assert an independent lien against the participant. Contract providers who agree, by contract, to a specified rate may not seek to recover an amount that exceeds the contracted rate against the participant.



This subdivision is not applicable to a lien for hospital services pursuant to Chapter 4 (commencing with Section 3045.1) of Title 14 of Part 4 of Division 3 of the Civil Code.

(d) If the participant engaged an attorney, the lien for health services asserted by a health benefits trust under subdivision (a) may not exceed the lesser of the actual amount paid by the trust or one-third of the moneys due to the participant under any final judgment, compromise, arbitration, or settlement agreement.

(e) If the participant did not engage an attorney, the lien for health services asserted by the health benefits trust under subdivision (a) may not exceed the lesser of the actual amount paid by the trust or one-half of the moneys due to the participant under any final judgment, compromise, arbitration, or settlement agreement.

(f) If a final judgment includes a special finding by a judge, jury, or arbitrator that the participant was partially at fault, the lien asserted by the health benefits trust shall be reduced by the same comparative fault percentage by which the participant's recovery was reduced.

(g) The lien asserted by the health benefits trust shall be subject to pro rata reduction, commensurate with the participant's reasonable attorney's fees and costs, in accordance with the common fund doctrine.

(h) The court or arbitrator may also take into account the obligation, if any, of the health benefits trust to make future medical payments on behalf of the participant for the medical condition that gave rise to the claim against the third party.

(i) The provisions of this section may not be admitted into evidence nor given in any instruction in any civil action or proceeding between a participant and a third party.

22948. (a) A court or arbitrator having jurisdiction over a claim by a participant against a third party shall additionally have jurisdiction over apportionment of any recovery on the claim, if the participant and the health benefits trust or any other party asserting a lien cannot agree on an allocation.

(b) In the event of a settlement between the participant and the third party where there is no agreement on proper apportionment of the settlement between the participant and the health benefits trust or any other party asserting a lien, the participant may petition the court for a determination in accordance with this section. The



parties may introduce evidence with respect to the issue of apportionment in any manner authorized by the Evidence Code, including, but not limited to, introduction by sworn declaration or by relevant discovery responses. The participant shall make available to the health benefits trust all relevant discovery in a reasonable and timely manner. The use of witness testimony shall be discouraged and shall be allowed only by stipulation of the parties.

(c) In the event of a judgment where there is no agreement on proper apportionment of the judgment between the participant and the health benefits trust or any other party asserting a lien, the participant may file a post-trial motion asking the court to apportion the judgment in accordance with this section.

SEC. 23. Part 5 (commencing with Section 22751) of Division 5 of Title 2 of the Government Code is repealed.

SEC. 24. Part 6 (commencing with Section 22950) of Division 5 of Title 2 of the Government Code is repealed.

SEC. 25. Part 6 (commencing with Section 22950) is added to Division 5 of Title 2 of the Government Code, to read:

PART 6. STATE EMPLOYEES' DENTAL CARE ACT

22950. This part may be cited as the State Employees' Dental Care Act.

22951. It is the purpose of this part to do all of the following:

(a) Promote increased economy and efficiency in the state service.

(b) Enable the state to attract and retain qualified employees by providing dental care plans similar to those commonly provided in private industry.

(c) Recognize and protect the state's investment in each permanent employee by promoting and preserving good health among state employees.

22952. Unless otherwise indicated, the definition of terms in Part 5 (commencing with Section 22750) apply to this part.

22953. (a) The state, through the Department of Personnel Administration, the Trustees of the California State University, or the Regents of the University of California may contract, upon negotiations with employee organizations, with carriers for dental care plans for employees, annuitants, and eligible family



members, provided the carriers have operated successfully in the area of dental care benefits for a reasonable period or have a contract to provide a health benefit plan pursuant to Section 22850. The dental care plans may include a portion of the monthly premium to be paid by the employee or annuitant. Dental care plans provided under this authority may be self-funded by the employer if it is determined to be cost-effective.

(b) An employee or annuitant may enroll in a dental care plan provided by a carrier that also provides a health benefit plan pursuant to Section 22850 if the employee or annuitant is also enrolled in the health benefit plan provided by that carrier. However, nothing in this section may be construed to require an employee or annuitant to enroll in a dental care plan and a health benefit plan provided by the same carrier.

(c) No contract for a dental care plan may be entered into unless funds are appropriated by the Legislature in a subsequently enacted statute. If a dental care plan is self-funded, funds used for that plan shall be considered continuously appropriated, notwithstanding Section 13340.

22954. Funds appropriated for self-funded dental care plans for state employees, other than employees of the California State University, shall be maintained in the State Employees' Dental Care Fund which is hereby created in the State Treasury. Moneys in this fund shall be used by the Department of Personnel Administration to pay dental claims and other administrative costs. Income earned on the moneys in the State Employees' Dental Care Fund shall be credited to the fund. Moneys in this fund are continuously appropriated in accordance with this section and Section 22953.

22955. Funds appropriated for self-funded dental care plans for employees of the California State University shall be maintained in the California State University Employees' Dental Care Fund, which is hereby created in the State Treasury. Moneys in this fund shall be used by the Trustees of the California State University to pay dental claims and other administrative costs. Income earned on the moneys in the California State University Employees' Dental Care Fund shall be credited to the fund. Moneys in this fund are continuously appropriated in accordance with this section and Section 22953.



22956. (a) An annuitant who retires from the state may enroll in a dental care plan offered under this part, provided either of the following apply:

(1) The annuitant is not enrolled in a health benefit plan or a dental care plan, but was eligible for enrollment as an employee at the time of separation for retirement, and who retired within 120 days of the date of separation.

(2) The annuitant is receiving an allowance pursuant to Article 6 (commencing with Section 9359) of Chapter 3.5 of Part 1 of Division 2.

(b) The board has no duty to locate or notify any annuitant who may be eligible to enroll, or to provide names or addresses to any person, agency, or entity for the purpose of notifying those annuitants.

22957. A person who was enrolled in a dental care plan at the time he or she became an annuitant under state or federal provisions, may continue his or her enrollment, including eligible family members, without discrimination as to premium rates or benefit coverage. The dental care plans may require part of a monthly premium to be paid by the annuitant, not to exceed the premium paid by represented or excluded employees, whichever is less, for the state-sponsored indemnity dental plan. The premium to be paid by the annuitant shall be deducted from his or her monthly allowance.

22958. (a) Notwithstanding Sections 22953 and 22957, the following employees may not receive any portion of the employer contribution payable for annuitants, unless the person is credited with 10 or more years of state service, as defined by this section, at the time of retirement:

(1) A state employee, as defined by subdivision (c) of Section 3513, in State Bargaining Unit 5, 6, 8, or 16 who becomes a state member of the system after January 1, 1999.

(2) A state employee, as defined by subdivision (c) of Section 3513, in State Bargaining Unit 19 who becomes a state member of the system after July 1, 1998.

(3) A state employee, as defined by subdivision (c) of Section 3513, who becomes a state member of the system after January 1, 2000, and is a member of a state bargaining unit that has agreed to this section.



(4) A state employee who becomes a state member of the system after January 1, 2000, and is either excluded from the definition of a state employee in subdivision (c) of Section 3513, or a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

(b) The percentage of the employer contribution payable for postretirement dental care benefits for an employee subject to this section shall be based on the funding provision of the plan and the completed years of credited state service at retirement as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

(c) This section only applies to state employees who retire for service.

(d) Benefits provided to an employee subject to this section shall be applicable to all future state service.

(e) For purposes of this section, “state service” means service rendered as an employee or an appointed or elected officer of the state for compensation.

(f) In those cases where the state has assumed from a public agency a function and the related personnel, service rendered by that personnel for compensation as employees or appointed or elected officers of that public agency may not be credited as state service for the purposes of this section, unless the former employer has paid or agreed to pay the state the amount actuarially determined to equal the cost for any employee dental benefits that were vested at the time that the function and the related personnel



were assumed by the state, and the Department of Finance finds that the contract contains a benefit factor sufficient to reimburse the state for the amount necessary to fully compensate for the postretirement dental benefit costs of those personnel. For noncontracting public agencies, the state agency that has assumed the function shall certify the completed years of public agency service to be credited to the employee as state service credit under this section.

(g) This section does not apply to employees of the California State University or the Legislature.

22959. The Department of Personnel Administration shall administer the benefits provided by this part for civil service employees and annuitants. The Trustees of the California State University shall administer the benefits provided by this part for employees and annuitants of the California State University.

SEC. 26. Section 26296.22 of the Government Code is amended to read:

26296.22. (a) Except as otherwise provided in subdivisions (b) and (c), the commission shall enter into a contract with the Board of Administration of the Public Employees' Retirement System, and the board shall enter into that contract, to include all of the employees of the commission in that retirement system, and the employees shall be entitled to substantially similar health benefits as are state employees pursuant to Part 5 (commencing with Section 22750) of Division 5 of Title 2.

(b) For purposes of providing retirement benefits, the commission may contract with the retirement system of which the employees of the county are members, in lieu of contracting with the board.

(c) Notwithstanding subdivision (a) or (b), to the extent that the commission contracts with the county or other agencies to utilize employees of the county or other agencies as employees of the commission, the commission need not establish any retirement benefits program for those employees.

SEC. 27. Section 26299.036 of the Government Code is amended to read:

26299.036. (a) Except as otherwise provided in subdivisions (b) and (c), the agency shall enter into a contract with the Board of Administration of the Public Employees' Retirement System, and the board shall enter into that contract, to include all of the



employees of the agency in that retirement system, and the employees shall be entitled to substantially similar health benefits as are state employees pursuant to Part 5 (commencing with Section 22750) of Division 5 of Title 2.

(b) For purposes of providing retirement benefits, the agency may contract with the retirement system of which the employees of the county are members, in lieu of contracting with the board.

(c) Notwithstanding subdivision (a) or (b), to the extent that the agency contracts with the county or other agencies to utilize employees of the county or other agencies as employees of the agency, the agency need not establish any retirement benefits program for those employees.

SEC. 28. Section 73642 of the Government Code is amended to read:

73642. (a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan, except that if deferred compensation is selected, no adjustment based on retirement tier shall apply, and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by the County of San Diego for the classification of chief administrative officer or retiree health benefits whereby each judge of the municipal court serving on or after October 1, 1987, who retires from the municipal court on or after January 1, 1989, shall receive the same amount of insurance premium for retiree health benefits under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Title 2) that the state provides to retired superior court judges under that act.

SEC. 29. Section 73952 of the Government Code is amended to read:

73952. (a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance,



comprehensive annual physical examinations, executive flexible benefits plan, except that if deferred compensation is selected, no adjustment based on retirement tier shall apply, and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by the County of San Diego for the classification of chief administrative officer or retiree health benefits whereby each judge of the municipal court serving on or after October 1, 1987, who retires from the municipal court on or after January 1, 1989, shall receive the same amount of insurance premium for retiree health benefits under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Title 2) that the state provides to retired superior court judges under that act.

SEC. 30. Section 74342 of the Government Code is amended to read:

74342. (a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan, except that if deferred compensation is selected, no adjustment based on retirement tier shall apply, and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by the County of San Diego for the classification of chief administrative officer or retiree health benefits whereby each judge of the municipal court serving on or after October 1, 1987, who retires from the municipal court on or after January 1, 1989, shall receive the same amount of insurance premium for retiree health benefits under the Public Employees' Medical and Hospital



Care Act (Part 5 (commencing with Section 22750) of Title 2) that the state provides to retired superior court judges under that act.

SEC. 31. Section 74742 of the Government Code is amended to read:

74742. (a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan, except that if deferred compensation is selected, no adjustment based on retirement tier shall apply, and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in those benefits shall be effective on the same date as for those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by the County of San Diego for the classification of chief administrative officer or retiree health benefits whereby each judge of the municipal court serving on or after October 1, 1987, who retires from the municipal court on or after January 1, 1989, shall receive the same amount of insurance premium for retiree health benefits under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Title 2) that the state provides to retired superior court judges under that act.

SEC. 32. Section 75521 of the Government Code is amended to read:

75521. (a) A judge who leaves judicial office before accruing at least five years of service shall be paid the amount of his or her contributions to the system, and no other amount.

(b) A judge who leaves judicial office after accruing five or more years of service and who is not eligible to elect to retire under Section 75522 shall be paid the amount of his or her monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution, and no other amount.

(c) Judges who leave office as described in subdivision (b) are "retired judges" for purposes of a concurrent retirement with respect to the benefits provided under Section 20639 and



assignment pursuant to Article 2 (commencing with Section 66540) of Chapter 2 and are eligible for benefits provided under Section 22814.

(d) After a judge has withdrawn his or her accumulated contributions or the amount of his or her monetary credits upon leaving judicial office, the service shall not count in the event he or she later becomes a judge again, until he or she pays into the Judges' Retirement System II Fund the amount withdrawn, plus interest thereon at the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20750 from the date of withdrawal to the date of payment.

SEC. 33. Section 124964 of the Health and Safety Code is amended to read:

124964. The standard health benefit package provided to the uninsured poor children and adults enrolled in the pilot program shall be the same as, or comparable to, the benefit packages available to the employees of those public agencies who have elected to have their employees participate in the Public Employees' Medical and Hospital Care Act, Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code.

SEC. 34. Section 4856 of the Labor Code is amended to read:

4856. (a) Whenever any local employee who is a firefighter, or peace officer as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is killed in the performance of his or her duty or dies as a result of an accident or injury caused by external violence or physical force incurred in the performance of his or her duty, the employer shall continue providing health benefits to the deceased employee's spouse under the same terms and conditions provided prior to the death, or prior to the accident or injury that caused the death, of the employee unless the surviving spouse elects to receive a lump-sum survivors benefit in lieu of monthly benefits. Minor dependents shall continue to receive benefits under the coverage provided the surviving spouse or, if there is no surviving spouse, until the age of 21 years. However, pursuant to Section 22822 of the Government Code, the surviving spouse may not add the new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse.



(b) Subdivision (a) also applies to the employer of any local employee who is a firefighter, or peace officer as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who was killed in the performance of his or her duty or who died as a result of an accident or injury caused by external violence or physical force incurred in the performance of his or her duty prior to September 30, 1996.

SEC. 35. Section 13600 of the Probate Code is amended to read:

13600. (a) At any time after a husband or wife dies, the surviving spouse or the guardian or conservator of the estate of the surviving spouse may, without procuring letters of administration or awaiting probate of the will, collect salary or other compensation owed by an employer for personal services of the deceased spouse, including compensation for unused vacation, not in excess of five thousand dollars (\$5,000) net.

(b) Not more than five thousand dollars (\$5,000) net in the aggregate may be collected by or for the surviving spouse under this chapter from all of the employers of the decedent.

(c) For the purposes of this chapter, a guardian or conservator of the estate of the surviving spouse may act on behalf of the surviving spouse without authorization or approval of the court in which the guardianship or conservatorship proceeding is pending.

(d) The five thousand dollar (\$5,000) net limitation set forth in subdivisions (a) and (b) does not apply to the surviving spouse or the guardian or conservator of the estate of the surviving spouse of a firefighter or peace officer described in subdivision (a) of Section 22820 of the Government Code.

(e) On January 1, 2003, and on January 1 of each year thereafter, the maximum net amount of salary or compensation payable under subdivisions (a) and (b) to the surviving spouse or the guardian or conservator of the estate of the surviving spouse may be adjusted to reflect any increase in the cost of living occurring after January 1 of the immediately preceding year. The United States city average of the “Consumer Price Index for all Urban Consumers,” as published by the United States Bureau of Labor Statistics, shall be used as the basis for determining the changes in the cost of living. The cost-of-living increase shall equal or exceed 1 percent before any adjustment is made. The net



amount payable may not be decreased as a result of the cost-of-living adjustment.

SEC. 36. Section 35137 of the Public Resources Code is amended to read:

35137. The authority may enter into a contract with the Board of Administration of the Public Employees' Retirement System to include the employees of the authority in that retirement system who are eligible for membership therein, and the employees shall be entitled to the same benefits as state employees pursuant to Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code.

SEC. 37. Section 130109 of the Public Utilities Code is amended to read:

130109. (a) Except as otherwise provided in subdivision (b), the commission shall enter into a contract with the Board of Administration of the Public Employees' Retirement System, and the board shall enter into that contract, to include all of the employees of the commission into that retirement system, and the employees shall be entitled to substantially similar health benefits as are state employees pursuant to Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code.

(b) For purposes of providing retirement benefits, the commission may contract with the retirement system that the employees of the county in which the commission is located are members of in lieu of contracting with the board.

(c) Each person employed by the Orange County Transportation Commission on January 1, 1992, may, no later than February 1, 1992, elect to either remain a member of the Public Employees' Retirement System or become a member of the Orange County Employees Retirement System. All persons who become employed by the commission after February 1, 1991, shall be members of the Orange County Employees Retirement System.

SEC. 38. Section 131269 of the Public Utilities Code is amended to read:

131269. A county transportation authority may enter into a contract with the Board of Administration of the Public Employees' Retirement System, and the board may enter into the contract to include all of the employees of the county transportation authority in that retirement system. The employees may be entitled to the same health benefits as are state employees



pursuant to Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code or any other retirement system that the authority determines is in the best interest of its employees.

SEC. 39. Section 140109 of the Public Utilities Code is amended to read:

140109. The authority shall enter into a contract with the Board of Administration of the Public Employees' Retirement System to include all of the employees of the commission into that retirement system, and the employees shall be entitled to the same health benefits as are state employees pursuant to Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code.

SEC. 40. It is the intent of the Legislature in enacting this act to reorganize the Public Employees' Medical and Hospital Care Act and the State Employees' Dental Care Act. It is not the intent of the Legislature to make any substantive change in the law. Thus, if, in the opinion of any court or administrative officer, a different result under any provision of Part 5 (commencing with Section 22751) of Division 5 of Title 2 of, or Part 6 (commencing with Section 22950) of Division 5 of Title 2 of, the Government Code, as it read on December 31, 2003, would occur because of the enactment of this act, the provision as it read on the effective date of this act shall be followed and the result shall be as it would have been on that date. It is further the intent of the Legislature that no new or additional rights vest in any employee, annuitant, or family member nor any benefits be reduced or impaired as a result of the enactment of this act. No current or future benefits under this act shall be revised in any way because of this act.

SEC. 41. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to facilitate the orderly administration of public retirement systems subject to this act at the earliest possible time, it is necessary that this act take effect immediately.



Approved _____, 2004

Governor

